University of London

606179

B I L L S,

PUBLIC:

FIVE VOLUMES.

—(1.)—

ACCOUNTS, &c. PRESENTATION

TO

CONTAGIOUS DISEASES (ANIMALS).

Session

10 *December* 1868——11 *August* 1869.

VOL. I.

1868-9.

B I L L S:

1868–9.

FIVE VOLUMES:—CONTENTS OF THE

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A

B I L L

TO

Amend the Law relating to the Presentation of Accounts, Statements, Returns, and Documents to Parliament. A.D. 1869.

WHEREAS various accounts, statements, returns, and other documents laid before Parliament, and in particular the appropriation accounts, required by "The Exchequer and Audit Departments Act, 1866," to be laid yearly before the House of Commons, contain the same information as accounts, statements, returns, and documents which are required under other Acts of Parliament to be laid separately before one or both Houses of Parliament; and it is expedient to provide for the discontinuance of such last-mentioned accounts, statements, returns, and documents: 29 & 30 Vict. c. 39.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The Parliamentary Returns Act, "1869." Short title.

2. Whenever it appears to the Commissioners of Her Majesty's Treasury that any account, statement, return, or document required by any Act of Parliament or otherwise to be laid before one or both Houses of Parliament contains the same information as or less information than is contained in the Appropriation Accounts prepared under "The Exchequer and Audit Departments Act, 1866," or in any account, statement, return, or document which is annually laid before one or both Houses of Parliament, or that the same has otherwise become obsolete, such Commissioners may by minute direct that after the date of such minute coming into operation the account, statement, return, or other document therein mentioned shall be discontinued, and upon the minute coming into operation the same shall be discontinued accordingly, and shall not be prepared or laid before either House of Parliament. Discontinuance by Treasury of separate returns.

[Bill 240.]

A.D. 1869.

Minute to be submitted to Parliament.

3. Every minute so made by the Commissioners of Her Majesty's Treasury shall be laid before both Houses of Parliament as soon as may be after it is made, and shall not come into operation until it has lain before Parliament for *thirty days* on which either House of Parliament has actually sat, or until such later date as may be in that behalf prescribed in the minute, and shall not come into operation at all if during such *thirty days* a resolution against its so coming into operation is passed by either House of Parliament.

Accounts, &c. Presentation.

A

BILL

To amend the law relating to the Presentation of Accounts, Statements, Returns, and Documents to Parliament.

(*Prepared and brought in by Mr. Ayrton and Mr. Chancellor of the Exchequer.*)

Ordered, by The House of Commons, *to be Printed*, 26 *July* 1869.

[Bill 240.]

Under 1 *oz.*

A

B I L L

FOR

Establishing District Registries of the High Court of Admiralty in England. A.D. 1869.

WHEREAS more than one half of the entire business now transacted in each year before the High Court of Admiralty of England consists of suits arising from the ports of Liverpool, Newcastle, Sunderland, and North Shields:

And whereas the hearing and determining of such suits before the said court in London, and the various proceedings incidental thereto, are attended with unnecessary delay and expense, which might be avoided by the holding of sittings at Liverpool and Newcastle, for the purpose of hearing and determining Admiralty suits:

And whereas it would further tend to increase the despatch and to lessen the expense of Admiralty suits if registries of the said High Court of Admiralty were established at Liverpool and , and other outports:

And whereas it is expedient to enlarge in certain respects the jurisdiction and powers of the High Court of Admiralty:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as the Admiralty District Jurisdiction Act, 1869.

Registries of Court of Admiralty may be established by Order in Council.

2. It shall be lawful for Her Majesty in Council, on the representation of the Lord Chancellor and the Judge of the High Court of Admiralty, to order that in any district to be named in such Order in Council there shall be established a registry of the High Court of Admiralty at the place to be therein named, and either with or without a sitting of the court, as may be by such Order in Council directed.

A.D. 1869.

Registrar clerks and officers.

3. There shall be one registrar for each district, and such clerks and other officers as the judge shall consider necessary, but no such registrar or clerk shall be entitled to claim any compensation in case his office shall at any time be abolished.

Registrar to be appointed by Judge.

4. Each district registrar shall be appointed by the judge of the High Court of Admiralty.

To hold office during good behaviour.

5. The district registrar shall hold his office during good behaviour.

Qualification of Registrar.

6. No person shall be appointed a district registrar unless he shall have been in practice as an advocate or barrister, proctor, attorney, or solicitor for a period of ten years.

Registrar not to practise as attorney in his district.

7. It shall not be lawful for any district registrar, during the time he shall hold and exercise his office, either directly or indirectly by himself, his partners, clerk, or other person, to practise in his district of the said court, either as attorney originally retained, or as agent for any other attorney, nor to participate in any costs payable to any attorney in respect of any such matters; and any district registrar being proved to the satisfaction of the said judge of the Court of Admiralty to have so practised, or to have participated in any costs as aforesaid, contrary to the meaning and intent of this Act, shall be deemed to have committed and shall be punishable as and for a contempt of court, and shall be liable to dismissal from his office.

Powers of Registrar.

8. Each district registrar shall have and exercise, in respect of any matter in his registry, all powers held or exercised by the registrar of the High Court of Admiralty of England, by virtue of this or of any former Act or rule.

To have power to hear suits for wages or salvage.

9. The registrar of the High Court of Admiralty and each district registrar, in respect of matters in his registry, shall have power to hear and determine all such suits of wages or salvage such as are now within the summary jurisdiction of two justices of the peace, and may, with the consent of all parties to any suit, adjourn the hearing of any suit or reference to any port or place within his district, where his so doing would be more convenient to the parties, or would further the ends of justice. Any additional expense to be thereby occasioned, unless otherwise ordered, to be deemed part of the costs in the cause.

Where suits to be instituted.

10. Any suit may be instituted,—

1. In the registry within the district of which the ship or property, the subject of the suit, may be at the time of the institution of the suit:

2. Or in the registry within the district of which the owner or owners of the ship or property, or the owner or owners of the larger number of shares in the ship, or the managing owner, or ship's husband, may reside at the time of the institution of the suit:

3. Or in the registry within the district of which is the port of registry of the ship:

4. Or in any other registry which the parties may agree upon, by a memorandum signed by them or their attorneys or agents:

Provided always, that when a suit has been instituted, either in the principal or in any district registry, no further suit shall be instituted against the same property in any other registry without leave of the judge, and subject to such terms as to costs and otherwise as he may direct.

What claims registrar may determine.

11. The Registrar of the High Court of Admiralty and each district registrar shall have power to hear and determine when pending in their respective registries any of the following claims; that is to say,

1. Any claim for damage, towage, or necessaries supplied to any ship where the sum claimed does not exceed three hundred pounds:

2. Any claim or dispute arising out of any agreement made in relation to the use or hire of any ship, or in relation to the carriage of goods in any ship, or between the owners and any master, officer, seaman, or other person employed on board any ship or otherwise, and also any claim in tort in respect of goods carried in any ship, provided the amount claimed does not exceed three hundred pounds:

3. Any such claim or dispute, the amount whereof exceeds the limit above mentioned, subject to the consent of the parties signified by a memorandum in writing signed by them or by their attorneys or agents.

Appeal.

12. An appeal may be made to the High Court of Admiralty of England from a final decree or order of a registrar, and by permission of the registrar or of the judge from any interlocutory degree or order therein, on security for costs being first given, and subject to such other provision as general orders shall direct.

Persons entitled to claim or liable to general average may apply to have

13. Any person entitled to claim or liable to contribute to general average, either in respect of ship or freight, or cargo, or his authorized representative, may apply to the Registrar of the High Court of Admiralty, or (if the vessel or cargo out of which the claim has arisen shall arrive in a port included in one of the district

A.D. 1869.

deposit made to meet claim.

registries) to the registrar of such district, by summons requiring a deposit to be made with such registrar or district registrar to meet such general average claim, and the registrar or district registrar may order such amount of money to be deposited as he may think necessary, or may allow bail to be substituted for a deposit; and if any person neglect to comply with any order so made, it shall be lawful for any such registrar to issue a warrant of attachment against the ship and freight, or goods in respect of which such claim shall have arisen, and hold such ship or goods until bail is given or the claim satisfied.

Average adjuster to be appointed;

14. The owner or master of such ship and the owners or consignees of the major part in value of such cargo shall agree upon an average adjuster, who shall make a report to the registrar to whom application has been made, in which shall be stated the relative amount of contributions to be paid by or to the several parties interested, together with the facts and figures by which such relative amounts are arrived at, which report shall be subject to the supervision and approval of the registrar, if objected to within such time as the rules and orders shall determine, unless the parties otherwise agree: Provided always, that in case the parties aforesaid shall fail to agree upon an average adjuster within seven days after application shall have been made to the registrar as aforesaid he shall himself appoint an average adjuster.

Who may require all parties interested to furnish information.

15. The average adjuster shall have power to call upon any of the parties interested in ship, freight, or cargo, to furnish him with any information in their possession or power, and to produce any document which he may consider necessary to enable him to determine the matters before him, and in case of refusal or neglect, may apply to the registrar, who may make an order for the attendance of such person or persons to be examined or otherwise, and for the production of such documents as he may think proper; such examination and production shall be either before the average adjuster or the registrar, as the registrar may decide, and the costs of such examination and production shall be in the discretion of the registrar.

Order of registrar may be made a rule of court.

16. Any order of the registrar made under the provisions of the last preceding section may, on application to him by any person interested, be made a rule of court, and the same shall and may be enforced in the same manner as if the same had been a judgment of the court.

Registrar to hear objections.

17. The registrar or district registrar shall hear and determine all objections made to any such adjustment, in manner to be prescribed

by the rules, and he may refer such adjustment back to the adjuster with such directions as he may deem necessary.

Judge of Admiralty Court periodically to hold court in districts.

18. The Judge of the High Court of Admiralty or a judge of one of the superior courts for the time being shall times in each year proceed to the several places mentioned in the general orders framed in pursuance of this Act, and shall there hold a court for the purpose of hearing and disposing of all Admiralty causes in the registries of the districts mentioned in such general orders, and of hearing appeals from the decision of the said district registrars as herein-after mentioned.

Notice of holding court.

19. Notice of the time when the judge will hold his court at each of the places mentioned in the said general orders shall be given not less than twenty-one days before the holding of such court.

Sittings to take place in assize court.

20. The sittings of the district court shall be held in the court where the assize is holden in each of the towns mentioned in such general orders, unless the judge shall otherwise order, and no payment shall be required for the use of such court. It shall be the duty of the mayor of each borough in which sittings of the court are held to make proper arrangements for the reception and accommodation of the judge, and to see that the court is ready for his use.

Payment of expenses out of money to be provided by Parliament.

21. *The travelling and other expenses of the judge, and all expenses properly incurred by the mayor in receiving the judge and providing him with necessary accommodation and a proper court, shall be defrayed by the Commissioners of the Treasury out of money to be provided by Parliament.*

Judge or Registrar may summon nautical assessors.

22. On the trial of any Admiralty cause subsisting in any district registry, either before the judge or before the registrar of such district, it shall be lawful for the judge or for the registrar, if he shall think fit, and he shall, upon the request of either party, summon to his assistance, in such manner as general orders shall direct, two nautical assessors, and such nautical assessors shall attend and assist accordingly.

List of persons qualified to act as nautical assessors to be published in London Gazette.

23. Each district registrar shall from time to time frame a list of persons of nautical skill and experience, residing or having places of business within the district, to act as assessors in that district, to be approved by the Lord Chancellor for the time being, before whom the same shall be laid by the district registrar, and without whose approval it shall have no validity, and shall cause the list, when so approved, to be published in the "London Gazette," and

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in at least one newspaper published in the town where the district registry is situate.

Removal of suits or appeal.

24. Any party to a suit or to an appeal at any stage of such suit or appeal may, by the leave of the court and subject to such terms as to costs or otherwise as the court may direct, remove any such suit instituted or any such appeal pending in the principal registry to any district registry, and any suit instituted or appeal pending in a district registry to the principal or to some other district registry.

Judge may remove proceedings.

25. It shall be lawful for the judge, on the application of any party to any suit or appeal pending at the principal or any district court, to order the same to be heard in any district court or in the principal court, either with or without removing the proceedings in such suit or appeal from the registry in which the same may be pending.

Scale of costs to be prescribed.

26. A scale of costs and charges in Admiralty causes in the district courts and of fees to be taken by the district registrars shall be prescribed by general orders.

Application of fees.

27. All fees received in each district registry shall be applied in the first instance in the payment of office expenses and salaries of the clerks employed therein, then in payment to the registrar of such remuneration in lieu of salary as may be determined by general orders; and all such fees shall be accounted for by each district registrar, and the surplus, if any, paid over by him to the Commissioners of Her Majesty's Treasury at such period and in such manner as the Commissioners may direct.

General orders for regulating practice, &c. to be made;

28. General orders shall be from time to time made under this Act for the purposes in this Act directed, and for regulating the practice and procedure in the district registries, the duties of the registrars and officers thereof, and the fees to be taken therein.

By whom to be made.

29. General orders under this Act shall be made by the Lord Chancellor, with the advice and assistance of the Judge of the High Court of Admiralty of England.

Admiralty District Registries.

A

BILL

For establishing District Registries of the High Court of Admiralty in England.

(*Prepared and brought in by Mr. Graves, Viscount Sandon, and Mr. Rathbone.*)

Ordered, by The House of Commons, *to be Printed,* 20 *July* 1869.

[Bill 229.]

Under 1 oz.

Admiralty Jurisdiction (County Courts) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.
2. Extension of jurisdiction over ships and goods. If parties agree, causes in respect of claims of higher amount may be determined by County Court.
3. Proceedings in rem, &c.
4. Limitation of maritime liens.
5. Power to file general average agreement.
6. Jurisdiction over average agreements when filed.
7. Commencement of Act.

A

B I L L

TO

Extend and regulate the Admiralty Jurisdiction of the County Courts. A.D. 1869.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as The County Courts Admiralty Jurisdiction Act, 1869, and shall be read and interpreted as one Act with the County Courts Admiralty Jurisdiction Act, 1868.

Extension of jurisdiction over ships and goods.

2. Any County Court appointed or to be appointed to have Admiralty jurisdiction shall have jurisdiction, and all powers and authorities relating thereto, to try and determine the following causes:

(1.) As to any claim arising on any charter-party, bill of lading, or other contract respecting the use or hire of any ship, or the carriage of goods therein, as between the immediate parties to such contract, or as between the owner of the ship and any person claiming through or under any such party, and over any claim concerning any ship or goods relating to freight, demurrage, average (general or particular), or short delivery of or damage to cargo, and generally over any claim of a civil and maritime nature relating to any ship, or to the goods carried therein, except insurance, provided such claim does not exceed three hundred pounds.

If parties agree, causes in respect of claims of higher amount may be determined by County Court.

(2.) As to any cause in respect of any such claim or claims as aforesaid, but in which the amount claimed is beyond the amount limited as above mentioned, when the parties agree, by a memorandum signed by them or by their attorneys or agents, that any County Court having Admiralty jurisdiction, and specified in the memorandum, shall have jurisdiction.

A.D. 1869.

Provided always, that any appeal from the decree or order of the County Court, in a cause in which jurisdiction is hereby given, shall be made to one of the Superior Courts of Common Law at Westminster, and not to the High Court of Admiralty.

Proceedings in rem, &c.

3. The jurisdiction conferred by this Act and by the County Courts Admiralty Jurisdiction Act, 1868, on any County Court appointed or to be appointed to have Admiralty jurisdiction, may be exercised either by proceedings in rem or by proceedings in personam, the twenty-second section of the County Courts Admiralty Jurisdiction Act, 1868, being hereby repealed.

Limitation of maritime liens.

4. A maritime lien on proceedings in a County Court shall remain in force as next herein-after specified; that is to say,—

If after the time when the lien first accrues the ship has been in any port or ports in England for one month, and the person entitled to enforce the lien has been in England for the same month, the lien shall remain in force until the expiration of three months from the end of that month, and no longer:

If after the time when the lien first accrues the ship has been in any port or ports in England for two months, but the person entitled to enforce the lien has not been in England for one month within that period of two months, the lien shall remain in force until the expiration of one year from the time when it first accrued, or until the expiration of three months from the end of that period of two months, whichever last happens, and no longer:

In other cases the lien shall remain in force until the expiration of three years from the time when it first accrued, and no longer, unless the person entitled to enforce the lien, after the expiration of that time, shows to the satisfaction of the Court that he has proceeded with reasonable diligence.

Power to file general average agreement.

5. Where, after the commencement of this Act, any persons enter into an agreement for a reference for the ascertainment and adjustment of the amount and proportion of their several losses and expenses in respect of general average, any party to the agreement may, at any time after the same is entered into, file in any County Court appointed or to be appointed to have Admiralty jurisdiction an attested copy of the agreement.

Jurisdiction over average agreements when filed.

6. On and after the filing of any such agreement the court in which it is filed shall have jurisdiction to entertain any application of any party to the agreement, or of the referee thereunder, respecting

the execution of any of the provisions of the agreement, or respecting any of the rights, powers, duties, or liabilities of the parties thereto or any of them; and on any such application, as far as appears to the court requisite for disposing of such application, but not further or otherwise, the court may proceed and direct and authorize proceedings with respect to the issuing of process and summoning and examination of witnesses, and in other respects, as if a suit or Admiralty cause had been regularly instituted in the court, and may make such orders concerning the subject of the application and the costs of it as seem just; and every such order shall have the effect and consequences of an order of the court in a suit or Admiralty cause regularly instituted.

Commencement of Act.

7. This Act shall come into operation on the first day of September one thousand eight hundred and sixty-nine.

Admiralty Jurisdiction (County Courts).

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B I L L

To extend and regulate the Admiralty Jurisdiction of the County Courts.

(*Prepared and brought in by Mr. Norwood, Mr. Headlam, and Mr. Candlish.*)

Ordered, by The House of Commons, *to be Printed,* 17 *February* 1869.

[Bill 2.]

Under 1 *oz.*

A

B I L L

TO

Amend the "Adulteration of Articles of Food or Drink Act, 1860," and to extend its provisions to Drugs. A.D. 1869.

WHEREAS the practice of adulterating articles of food and drink and drugs for sale, in fraud of Her Majesty's subjects, and to the great hurt of their health and danger to their lives, requires to be repressed by more effectual laws than those which are now in force for that purpose:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Penalty on persons adulterating articles of food or drink or drugs.

1. Every person who shall admix, and every person who shall order any other person or persons to admix, with any article of food or drink any injurious or poisonous ingredient or material to adulterate the same for sale, and every person who shall admix, and every person who shall order any other person or persons to admix, any ingredient or material with any drug to adulterate the same for sale, shall for the first offence forfeit and pay a penalty not exceeding *fifty pounds* together with the costs attending such conviction, and for the second offence shall be guilty of a misdemeanor and be imprisoned for six calendar months with hard labour.

Penalty on persons selling articles of food or drink or drugs which they know to have been adulterated.

2. Every person who shall sell any article of food or drink with which to the knowledge of such person any ingredient or material injurious to the health of persons eating or drinking such article has been mixed, and every person who shall sell as pure and unadulterated any article of food or drink, or any drug which is adulterated or not pure, shall for every such offence, on a summary conviction of the same before two justices of the peace at petty sessions in England, and in Scotland before two justices of the

A.D. 1869.

peace in the justices of the peace court, or before the sheriff substitute of the county, or before justices at petty sessions or a divisional justice in Ireland, forfeit and pay a penalty not exceeding *twenty pounds*, together with such costs attending such conviction as to the said justices shall seem reasonable; and if any person so convicted shall afterwards commit the like offence, it shall be lawful for such justices of the peace to cause such offender's name, place of abode, and offence to be published at the expense of such offender, in such newspaper or in such other manner as to the said justices shall seem desirable.

Power to appoint analysts.

3. In the city of London and the liberties thereof the commissioners of sewers of the city of London and the liberties thereof, and in all other parts of the metropolis the vestries and district boards acting in execution of the Act for the better local management of the metropolis in England and Ireland, the court of quarter sessions of every county, and the town council of every borough having a separate court of quarter sessions, and in Scotland the commissioners of supply at their ordinary meetings for counties, and town councils within their several jurisdictions, shall, for their respective city, districts, counties, or boroughs, appoint and remove one or more persons possessing competent medical, chemical, and microscopical knowledge as analysts of all articles of food, drink, and drugs purchased within the said city, metropolitan districts, counties, or boroughs, and shall pay to such analysts such salary or allowances as they may think fit; but such appointments and removals shall at all times be subject in Great Britain to the approval of one of Her Majesty's Principal Secretaries of State, and in Ireland to that of the Lord Lieutenant.

Appointment of commissioners to aid local authorities in carrying Act into effect.

4. In Great Britain one of Her Majesty's Principal Secretaries of State, and in Ireland the Lord Lieutenant, shall appoint one or more persons to act as commissioners to confer with and assist the local authorities in carrying out and enforcing this Act.

Inspectors of nuisances, &c. may submit articles to be analyzed.

5. The inspector of nuisances or the inspector of weights and measures, or the inspector of markets, one or all of them as the local authority appointing them shall think fit to determine, in every district, county, city, or borough shall procure and submit samples of articles of food or drink and drugs suspected to be adulterated to be analyzed by the analysts appointed under this Act, and shall, upon receiving a certificate stating that the articles of food or drink or drugs are adulterated, cause a complaint of an offence against this Act by the party selling or adulterating

such articles of food or drink or drugs to be made before a justice of the peace, and thereupon such justice shall issue a summons requiring the seller or the adulterator to appear before two justices of the peace at petty sessions in England, and in Scotland before two justices of the peace in the justice of the peace court, or before the sheriff substitute of the county, or before justices of petty sessions or divisional justices in Ireland, to answer such complaint, and such summons shall be served by delivering the same, or a true copy thereof, upon the premises where such samples were obtained or sold, and the expense of such prosecutions, if not ordered to be paid by the party complained against, shall be deemed part of the expense of executing this Act.

Analysts to make reports quarterly.

6. The analysts appointed under this Act shall report quarterly to the local authorities appointing them the number of articles of food, drink, or drugs analyzed by them under this Act during the foregoing quarter, and shall specify the nature and kind of adulterations detected in such articles of food, drink, and drugs, and all such reports shall be read at the meetings of the local authorities appointing such analysts.

Proof of identity of articles submitted to analysts.

7. On the hearing by the justices of any complaint under this Act in any district, county, city, or borough wherein analysts shall have been appointed under this Act, the purchaser, or inspector of nuisances, or the inspector of weights and measures, or the inspector of markets, as the case may be, shall prove to the satisfaction of such justices that the article of food or drink or drugs alleged to be adulterated was delivered to the analysts in the same condition as regards its purity or impurity as it was when received from the seller.

Purchaser of articles of food, &c. may require same to be analyzed.

8. Any purchaser of any article of food or drink or drugs in any district, county, city, or borough where there is any analyst appointed under this Act shall be entitled, on payment to the inspector or inspectors appointed under this Act of a sum not less than *one shilling* nor more than *five shillings*, to have any such article analyzed by any analyst who may be appointed for such district, county, city, or borough, and to receive from such analyst a certificate of the result of his analysis, specifying whether, in his opinion, such article is adulterated, and also, whether, if it be an article of food or drink, it is so adulterated as to be injurious to the health of persons eating or drinking the same, and such certificate, duly signed by such analyst, shall, in the absence of any evidence before the justices,

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or in any court of justices to the contrary, be sufficient evidence of the matters therein certified, and the sum so directed to be paid for such certificate shall be deemed part of the costs.

Articles of food, &c. ordered for analysis to be received and samples retained by inspectors.

9. All articles of food, drink, or drugs to be analyzed by the analysts appointed under this Act shall be received by the inspectors appointed by the local authorities, and from all such articles of food, drink, or drugs samples shall be taken and sealed in the presence of the analysts by the inspectors, to be retained by them and produced in case the justices shall order other analyses to be made under clause of this Act.

Appeal to quarter sessions.

10. Any person who has been convicted of any offence punishable by this Act by any justices may appeal to the next general or quarter sessions of the peace which shall be held for the city, county, town, or place wherein such judgment or conviction shall have been made, or in the case of the conviction having been before a sheriff substitute in Scotland, then the appeal shall be to the sheriff of the county, provided that such person enter into a recognizance within two days next after such conviction, with two sufficient sureties, conditioned to try such appeal, and to be forthcoming to abide the judgment and determination of the court at such general or quarter sessions, or sheriff, and to pay such costs as shall be by such court awarded; and the justices before whom such conviction shall be had are hereby empowered and required to take such recognizance; and the court at such general or quarter sessions, or sheriff, are hereby authorized and required to hear and finally determine the matter of every such appeal, and may award such costs to the party appealing or appealed against as they shall think proper.

Where conviction within six days of quarter sessions, time allowed for appeal.

11. If any such conviction or judgment or order of forfeiture shall happen to be made within six days before any general or quarter sessions of the peace shall be held for the city, county, town, or place wherein such conviction shall have been made, the person who shall think himself aggrieved by any such conviction may, on entering into a recognizance in manner and for the purposes before directed, be at liberty to appeal either to the then next or next following general or quarter sessions of the peace which shall be held for any such city, county, town, or place wherein any such conviction shall have been made, on giving six days notice to the complainant of his intention to appeal.

Persons convicted of selling

12. Any person who shall have been convicted by any justices or sheriff substitute of any offence punishable by this Act, in

respect of the selling of any article of food or drink or drugs which shall have been manufactured according to any process patented before the passing of this Act, either by the patentee or owner of the patent, or by any person carrying on his business or otherwise claiming under him during the continuance of such patent, may, instead of appealing to the general or quarter sessions of the peace or sheriff of the county, apply in writing within five days after such conviction to the justices or sheriff substitute, to state and sign a case for the opinion of one of the superior courts of law thereon, in like manner as under the statute of the twentieth and twenty-first years of Her Majesty, chapter forty-three, he might have applied to the justices to state and sign a case, and thereupon all such proceedings shall take place upon and in relation to such application, and all such provisions shall be applicable thereto, as would have taken place upon and in relation thereto, and been applicable thereto, under the provisions of the said last-mentioned Act; and in Scotland, for the purposes of such appeal, the justices or sheriff substitute may state and sign a case for the opinion of the Court of Session, in like manner as the justices in England and Ireland may, for the opinion of the superior courts of law under the said Act, and the Court of Session shall have in relation thereto the like powers as the superior courts have under the said Act, and all the other provisions of the said Act shall be applicable to such appeals.

adulterated patented article may have a case stated for opinion of superior court.

13. In England the provisions in the Nuisances Removal Act for England, 1855, as to procedure, and the provisions of the Act of the eleventh and twelfth years of the reign of Her present Majesty, intituled "An Act to facilitate the Performance of the Duties of "Justices of the Peace and of Sessions within England and Wales "with respect to summary Convictions and Orders," and in Scotland the ordinary rules regulating the procedure of justices of the peace, so far as the same are respectively applicable, shall extend and apply to cases arising under this Act in England or Scotland; and all monies arising from penalties under this Act in any county, city, district, or borough where there are analysts appointed under this Act shall, when paid or recovered, be paid in England and Ireland to the vestry, district board, commissioners, county treasurer, or town council for such county, city, district, or borough respectively, to be applied for the general purposes of such vestry, district board, commissioners, county, city, or borough respectively, and to the collector of rogue money for each county in Scotland.

Procedure in cases under this Act.

Application of monies.

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Proceedings in Ireland as to complaints, &c. to be subject to provisions of 14 & 15 Vict. c. 93. and 21 & 22 Vict. c. 100.

14. All proceedings under this Act in Ireland as to compelling the appearance of any such person or of any witness, and as to the hearing and determination of such complaints, and as to the making and executing of such orders, and as to the applications of fines, amerciaments, and forfeited recognizances imposed or levied under this Act at petty sessions, shall be subject in all respects to the provisions of "The Petty Sessions (Ireland) Act, 1851," as the same is amended by "The Petty Sessions Clerk (Ireland) Act, 1858," (when the case shall be heard in any petty sessions district,) and to the provisions of the Acts relating to the divisional police offices (when the case shall be heard in the police district of Dublin metropolis), so far as the said provisions shall be consistent with any special provisions of this Act; and when any fine or penalty is imposed at any of the divisional police offices of Dublin metropolis, or by the justices in any corporate town, under the provisions of this Act, such fines and penalties shall be paid over to the same purposes and appropriated and applied in the same manner as is now by law authorized in respect of fines and penalties imposed at such divisional police offices, or by the justices in any such corporate town respectively.

Appeal to quarter sessions.

15. In Ireland any person who has been convicted of any offence punishable by this Act may appeal to the next court of quarter sessions to be held in the same division of the county where the order shall be made by any justice or justices in any petty sessions district, or to the recorder at his next sessions where the order shall be made by the divisional justices in the police district of Dublin metropolis, or to the recorder of any corporate or borough town when the order shall be made by any justice or justices in such corporate or borough town (unless when any such sessions shall commence within seven days from the date of any such order, in which case, if the appellant sees fit, the appeal may be made to the next succeeding sessions to be held for such division or town); and it shall be lawful for such court of quarter sessions or recorder, as the case may be, to decide such appeal, if made in such form and manner, and with such notices, as are required by the Petty Sessions Acts respectively herein-before mentioned as to appeals against orders made by justices at petty sessions; and all the provisions of the said Petty Sessions Acts respectively as to making appeals and as to executing the orders made on appeal, or the original orders where the appeals shall not be duly prosecuted, shall also apply to any appeal or like order to be made under the provisions of this Act.

As to expenses of executing Act.

16. The expense of executing this Act shall be borne, in the city of London and the liberties thereof, out of the consolidated rates raised by the commissioners of sewers of the city of London and the liberties thereof, and in the rest of the metropolis out of any rates or funds applicable to the purposes of the Act for the better local management of the metropolis, and in counties out of the county rate, and in boroughs out of the borough fund, or out of the rogue money in counties in Scotland.

Indictment or other remedy not affected.

17. Nothing in this Act contained shall be held to affect the power of proceeding by indictment, or to take away any other remedy against any offender under this Act.

Interpretation of terms.

18. In the construction of this Act the words "articles of food or drink" shall (if not inconsistent with the context or subject matter) include not only all alimentary substances, whether solids or liquids, but also all eatables or drinkables whatsoever not being medical drugs or articles usually taken or sold as medicines, but this Act shall not be construed so as to affect the ordinary reduction of the strength of foreign, British, or colonial spirits by persons licensed and paying duties under the excise.

Adulteration of Food or Drink Act (1860) Amendment.

A

B I L L

To amend the "Adulteration of Food or "Drink Act (1860)," and to extend its Provisions to Drugs.

(*Prepared and brought in by Mr. Dixon, Mr. Kinnaird, and Mr. Goldney.*)

Ordered, by The House of Commons, *to be Printed,* 13 *April* 1869.

[Bill 78.]

Under 1 *oz.*

A

B I L L

TO

Abolish the Annuity Tax, or Ministers Money, in the parish of Canongate within Edinburgh, and to make other provisions respecting the stipend of the minister in that parish, and of the ministers in the City Parishes. A.D. 1869.

WHEREAS it is expedient that the Annuity Tax, or Ministers Money, at present levied within the parish of Canongate, situated within the parliamentary burgh of Edinburgh, on behalf of the minister of that parish, should be abolished, and that other provisions should be made respecting the future payment of the stipend of the said minister, and of the stipends of the ministers of the city of Edinburgh, by amending the Acts twenty-third and twenty-fourth Victoria, chapter fifty, and twenty-fourth and twenty-fifth Victoria, chapter twenty-seven, and thirtieth and thirty-first Victoria, chapter one hundred and seven, under which the said stipends are now regulated: Preamble.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The following words and expressions in this Act shall have the several meanings hereby assigned to them:

The word "commissioners" shall mean the commissioners appointed and incorporated under the first-recited Act:

The expression "magistrates and council" shall mean the lord provost, magistrates, and town council of the city of Edinburgh for the time being:

The word "city" shall mean the city of Edinburgh.

2. From and after the *term of Whitsunday one thousand eight hundred and seventy*, when the fixed stipend herein-after provided becomes payable, the rate or tax now levied under the name of the Canongate Annuity Tax within the parish of Canongate, for the Canongate Annuity Tax abolished.

A.D. 1869.

maintenance in part of the minister thereof, shall cease to be imposed or levied.

Pews of Canongate Church to be let.

3. The seats or pews in the church of the said parish of Canongate shall continue to be let by or at the sight of the kirk session of the said parish, and the proceeds thereof paid over to the Ecclesiastical Commissioners in the manner provided by the last-recited Act.

How pew rents are to be regulated.

4. The commissioners, in fixing the rents to be charged for pews or seats within the churches of the city and Canongate, may increase the rates now charged for them, and exercise the powers for regulating the same, conferred by the sixth section of the first-recited Act, but subject always to the condition that the pew or seat rents of the city churches, together with the rents, feu duties, and other miscellaneous receipts now leviable in connection with them, shall be so regulated as not to yield a less sum in any one year than the total amount derived from the same sources in the year ending twenty-fourth day of July one thousand eight hundred and sixty-eight, as shown by the accounts of the commissioners published in terms of the first-recited Act, namely, *four thousand three hundred and thirteen pounds;* and the produce of the said seat or pew rents shall from time to time be paid over by the kirk sessions of the several churches to the commissioners, free from any deductions whatever.

Permanent stipend fund.

5. The commissioners shall, in addition to the pew or seat rents, continue to uplift the rents of the dwelling houses, cellars, and vaults underneath or attached to the said churches, including the feu duties payable in respect of the ground whereon Lady Yester's church was formerly built, the interest of the monies mortified for the endowment of the last-named church, M'Call's mortification, and all other funds and revenues which now belong to them under any of the said recited Acts, or to which they may hereafter acquire right; and all the foresaid funds and revenues shall, subject to the conditions herein-after provided for the payment of certain temporary annuities for securing the life interests of the present incumbents, preferably to all other payments, form the future permanent stipend fund; and the stipends of all the ministers of the said city churches and of Canongate parish church, who may be presented to the same upon the death or demission of the present ministers, or who may be presented to fill up any vacancy which may occur or may have occurred by the death or demission of any minister before the passing of this Act, shall be paid out of the said fund at the terms

of Candlemas and Whitsunday yearly in equal portions: provided that nothing in this Act shall be construed to interfere with or affect the rights of the commissioners under the fifteenth section of the first-recited Act, but that these rights shall continue to exist in all respects as if this Act had not been passed.

Payment of ministers stipend.

6. The commissioners shall, out of the money received by them under the provisions of this and the before-recited Acts, pay, in the first place, to every person who, at the passing of this Act, was, and so long as he continues to be, a minister of any of the churches of the city, or of the parish of Canongate, during all the days of his life, the full stipend to which he became entitled under the provisions of any of the said recited Acts preferably to all other payments.

Annuity to be restricted in amount.

7. So much of the eighth section of the first-recited Act, and of schedule (A.) annexed thereto, as requires the magistrates and council to pay to the commissioners a perpetual annuity of four thousand two hundred pounds per annum from the produce of the police assessment, as a commutation of part of the Annuity Tax formerly leviable for ministers stipends within the city, by equal portions, on the second day of February and fifteenth day of May in each year, shall be repealed; and from and after the *second day of February one thousand eight hundred and seventy*, the said annuity shall be restricted to *two thousand and fifty pounds*, of which the first portion shall be payable at that date; and from and after the death or demission of one of the eight ministers of any of the churches situated within the ancient royalty of the city, the said annuity shall be restricted to *one thousand four hundred and fifty pounds;* and from and after the death or demission of a second minister of any of the said churches the said annuity shall be restricted to *eight hundred and fifty pounds;* and from and after the death or demission of a third minister of any of the said churches the said annuity shall be restricted to *two hundred and fifty pounds;* and from and after the death or demission of the present minister of the parish of Canongate the annuity which would otherwise have been payable after that period shall be reduced by *two hundred and fifty pounds;* and from and after the death or demission as aforesaid of three ministers of churches situated within the ancient royalty of the city, and of the minister now officiating in the parish of Canongate, the obligation to pay any portion of the said annuity shall cease and determine, and the bond of annuity granted by the magistrates and council in terms of the first-recited Act, and of schedule (A.) annexed thereto, shall be held to be cancelled, and the security

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When vacancies occur, how to be provided for.

which the commissioners now enjoy under the said first-recited Act over the revenues and properties of the city shall cease and determine; and it shall thereafter be in the power of the commissioners either to provide stipends, of such amount as they shall think fit, out of the foresaid permanent stipend fund, as vacancies occur, for all or any of the successors of the said three ministers of the ancient royalty, or if the commissioners shall, in the exercise of their discretion, determine not to provide stipends for a successor or successors to any one or more of such three ministers, no successor shall be appointed, and the charge shall thereupon lapse and become extinct in the same way and manner as is provided respecting other charges under the twenty-first section of the first-recited Act; and a re-arrangement of the charges and of the boundaries of the city parishes shall in such case be made in conformity with the powers conferred by the twenty-third section of the first-recited Act respecting other charges suppressed by the said Act: provided that any vacancy which may occur or may have occurred before the passing of this Act (excepting always the vacancy in Trinity College Church), by the death or demission of any of the eight ministers in the ancient royalty of the city, and which vacancy has not been filled up before the passing of this Act, shall be dealt with, as respects the payment of a restricted amount of annuity by the magistrates and council, to the commissioners, in the same manner as is herein-before provided for in the case of vacancies occurring after the passing of this Act.

Act to be recorded in public registers.

8. As soon as the said bond of annuity for four thousand two hundred pounds per annum, granted in terms of the first-recited Act, and of schedule (A.) annexed thereto, shall cease to be payable in manner before provided, the real security created by the first-recited Act shall be extinguished for ever thereafter; and a copy of this Act, recorded in the General Register of Sasines kept at Edinburgh, and in the Register of Sasines for the burgh of Edinburgh, shall to all intents and purposes be, and shall be held to be, equivalent to a discharge and renunciation, in favour of the debtors in the said bonds of annuity, of all the heritable property belonging to the magistrates and council, so as to free and relieve the same of the real burden created by the first-recited Act, and the recording of the same in the said Register of Sasines, and shall also be held equivalent to an intimated retrocession of the debts and rights and to actual re-delivery of the moveable property of the said magistrates and council, so as to free and relieve the same in all time to come from all lien over the same in favour of the Ecclesiastical

Commissioners or any of the said ministers; and the keepers of the said General Register of Sasines and Burgh Register of Sasines are, upon a copy of this Act being presented to them for that purpose on behalf of the magistrates and council, hereby authorized and required to record the same in the said respective registers.

Rate of assessment to be reduced in amount.

9. The bonds of annuity granted in terms of the first-recited Act, and schedule (B.) annexed thereto, in favour of the commissioners for behoof of Doctor John Hunter, Doctor James M'Letchie, and the Reverend George Smith, during their several lives, being now extinguished by reason of their decease, and the maximum assessment being, in consequence, now limited to threepence per pound, so much of the eleventh section of the first-recited Act as authorizes the magistrates and council to levy the said assessment to any extent not exceeding threepence per pound on the rental of the property situated within the ancient and extended royalties as declared and limited by the second-recited Act, shall be repealed; and from and after the term of Whitsunday *one thousand eight hundred and seventy* the said assessment shall not exceed *one penny and one halfpenny* per pound on the rental of the property situated within the said ancient and extended royalties; and such assessment shall be farther reduced from time to time by the magistrates and council, as nearly as may be practicable, in the same proportion in which the annuities herein-before made payable shall be reduced in amount, and the said assessment shall altogether cease when the said annuities cease to be payable as herein-before provided; but declaring that, so long as any such assessment shall be levied over the ancient and extended royalties, it shall in like manner be levied to the same extent over the whole lands and heritages in the parish of Canongate, in the same way and manner in which it may be levied over the ancient and extended royalties under the said recited Acts and this Act: provided that all arrears of annuity tax formerly leviable within any part of the parliamentary burgh of Edinburgh shall, after the *term of Whitsunday one thousand eight hundred and seventy*, cease to be leviable.

Church door collections to be paid to the commissioners.

10. From and after the term of Martinmas *one thousand eight hundred and sixty-nine*, the whole ordinary church door collections or offerings, other than collections made for special purposes, shall be accounted for and paid over to the commissioners by the kirk sessions of each of the said churches; and the kirk sessions thereof shall not be required to render any account of their expenditure of the said ordinary church door collections or offerings

A.D. 1869.

to the board of supervision for the management of the poor established by the Act eighth and ninth Victoria, chapter eighty-three, the provisions of which Act shall not after the period last-mentioned be applicable to the collections in the said churches.

Church door collections, how to be applied.

11. The commissioners shall, from and after the term of Martinmas *one thousand eight hundred and sixty-nine*, apply, either by themselves or through the kirk sessions, as they shall think fit, the produce of the foresaid ordinary church door collections or offerings, for defraying the expenses connected with the said churches, other than ministers stipends, including in such expenses all the purposes specified in the sixth and seventh sections of the first-recited Act: provided that any surplus arising on the proceeds of the church door collections or offerings may be applied by the commissioners in aid of the permanent stipend fund, and that any surplus arising on the permanent stipend fund may in like manner be applied in aid of the ordinary church door collections towards payment of the expenses connected with the proper maintenance of the churches.

Patronage of churches to be exercised by the elders and male communicants.

12. So much of the twenty-second section of the first-recited Act as requires payment to be made by the commissioners or kirk session to the city treasurer, for behoof of the magistrates and council, of six hundred pounds as the value and price of the right of patronage of any one or of each of the parochial charges in the city, before the right of patronage shall be transferred by the magistrates and council to and vested in the kirk sessions of such church for the purpose of being in all time thereafter lawfully exercised by the elders and other male members of the church in which there is a vacancy, or a majority of their number in full communion, and whose names have stood on the roll of communicants of such church for three years preceding the occurrence of the vacancy, shall be repealed; and from and after the passing of this Act the right of patronage of each of the city churches shall be transferred to and vested in the kirk sessions thereof, and shall be exercised by the elders and communicants in the manner provided for in the twenty-second section of the said first-recited Act, without the payment of any price for the same, as fully and freely as if the said sum of six hundred pounds had been paid to the magistrates and council for each such right of patronage.

Statutes inconsistent with this repealed.

13. All laws, statutes, and usages inconsistent with the provisions of this Act are hereby repealed.

Act to be construed with recited Acts.

14. This Act shall be construed as one with the recited Acts, in so far as the provisions of these Acts are not repealed by or inconsistent with the provisions of this Act.

Annuity Tax (Edinburgh).

A

BILL

To abolish the Annuity Tax, or Ministers Money, in the parish of Canongate within Edinburgh, and to make other provisions respecting the stipend of the minister in that parish, and of the ministers in the City Parishes.

(*Prepared and brought in by Mr. McLaren, Mr. Miller, and Mr. Crum-Ewing.*)

Ordered, by The House of Commons, *to be Printed*, 25 *February* 1869.

[Bill 19.]

Under 1 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Abolish the Annuity Tax, or Ministers Money, in the parish of Canongate within Edinburgh, and to make other provisions respecting the stipend of the ministers in that parish, and of the ministers in the City Parishes. A.D. 1869.

WHEREAS it is expedient that the Annuity Tax, or Ministers Money, at present levied within the parish of Canongate, situated within the parliamentary burgh of Edinburgh, on behalf of the minister of that parish, should be abolished, and that other provisions should be made respecting the future payment of the stipend of the said minister, and of the stipends of the ministers of the city of Edinburgh, by amending the Acts twenty-third and twenty-fourth Victoria, chapter fifty, and twenty-fourth and twenty-fifth Victoria, chapter twenty-seven, and thirtieth and thirty-first Victoria, chapter one hundred and seven, under which the said stipends are now regulated: Preamble.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The following words and expressions in this Act shall have the several meanings hereby assigned to them:

The word "commissioners" shall mean the commissioners appointed and incorporated under the first-recited Act:

The expression "magistrates and council" shall mean the lord provost, magistrates, and town council of the city of Edinburgh for the time being:

The word "city" shall mean the city of Edinburgh.

2. From and after the term of Whitsunday one thousand eight hundred and seventy, when the fixed stipend herein-after provided becomes payable, the rate or tax now levied under the name of the Canongate Annuity Tax within the parish of Canongate, for the Canongate Annuity Tax abolished.

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maintenance in part of the minister thereof, shall cease to be imposed or levied.

Pews of Canongate Church to be let.

3. The seats or pews in the church of the said parish of Canongate shall continue to be let by or at the sight of the kirk session of the said parish, and the proceeds thereof paid over to the commissioners in the manner provided by the last-recited Act.

How pew rents are to be regulated.

4. The commissioners, in fixing the rents to be charged for pews or seats within the churches of the city and Canongate, may increase the rates now charged for them, and exercise the powers for regulating the same, conferred by the sixth section of the first-recited Act, but subject always to the condition that the pew or seat rents of the city churches, together with the rents, feu duties, and other miscellaneous receipts now leviable in connexion with them, shall be so regulated as not to yield a less sum in any one year than the total amount derived from the same sources in the year ending thirtieth day of June one thousand eight hundred and sixty-eight, as shown by the accounts of the commissioners published in terms of the first-recited Act, namely, four thousand three hundred and thirteen pounds, and the commissioners or kirk sessions are hereby authorized and required to recover payment of seat or pew rents from all sitters or families, for such sittings or pews as they usually occupy in any of the said churches; and the produce of the said seat or pew rents shall from time to time be paid over by the kirk sessions of the several churches to the commissioners, free from any deductions whatever; provided that nothing in this Act shall affect so much of section sixth of the first-recited Act as requires that not less than one tenth of the number of sittings in each church shall be reserved as free sittings; and in Trinity College church two hundred sittings shall be reserved as free sittings for the accommodation of the beneficiaries or pensioners of Trinity Hospital.

Permanent stipend fund.

5. The commissioners shall, in addition to the pew or seat rents, continue to uplift the rents of the dwelling houses, cellars, and vaults underneath or attached to the said churches, including the feu duties payable in respect of the ground whereon Lady Yester's church was formerly built, the interest of the monies mortified for the endowment of the last-named church, and all other funds and revenues which now belong to them under any of the said recited Acts, or to which they may hereafter acquire right, together with the proceeds of M'Call's mortification, which shall be paid over annually by the magistrates and council; and all the foresaid funds and revenues shall, subject to the conditions

herein-after provided for the payment of certain temporary annuities for securing the life interests of the present incumbents, preferably to all other payments, form the future permanent stipend fund; and the stipends of all the ministers of the said city churches and of Canongate parish church, who may be presented to the same upon the death or demission of the present ministers, or who may be presented to fill up any vacancy which may occur or may have occurred by the death or demission of any minister before the passing of this Act, shall be paid out of the said fund at the terms of Candlemas and Whitsunday yearly in equal portions: Provided that nothing in this Act shall be construed to interfere with or affect the rights of the commissioners under the fifteenth section of the first-recited Act, but that these rights shall continue to exist in all respects as if this Act had not been passed. A.D. 1869.

Payment of minister's stipend.

6. The commissioners shall, out of the money received by them under the provisions of this and the before-recited Acts, pay, in the first place, to every person who, at the passing of this Act, was, and so long as he continues to be, a minister of any of the churches of the city, or of the parish of Canongate, during all the days of his incumbency, the full stipend to which he became entitled under the provisions of any of the said recited Acts preferably to all other payments.

Annuity to be restricted in amount.

7. So much of the eighth section of the first-recited Act, and of schedule (A.) annexed thereto, as requires the magistrates and council to pay to the commissioners a perpetual annuity of four thousand two hundred pounds per annum, being the amount received by them from the police assessment, and required to be paid as a commutation of part of the annuity tax formerly leviable for ministers stipends within the city, by equal portions, on the second day of February and fifteenth day of May in each year, shall be repealed; and from and after the fifteenth day of May one thousand eight hundred and seventy, the said annuity shall be restricted to two thousand and fifty pounds, of which the first portion shall be payable on the second day of February one thousand eight hundred and seventy-one; and from and after the death or demission of one of the eight ministers of any of the churches situated within the ancient royalty of the city, the said annuity shall be restricted to one thousand four hundred and fifty pounds; and from and after the death or demission of a second minister of any of the said churches the said annuity shall be restricted to eight hundred and fifty pounds; and from and after the death or demission of a third minister of any of the said churches the said annuity shall be restricted to two hundred and fifty pounds; and from

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and after the death or demission of the minister of the parish of Canongate the annuity which would otherwise have been payable after that period shall be reduced by two hundred and fifty pounds; and from and after the death or demission as aforesaid of three ministers of churches situated within the ancient royalty of the city, and of the minister of the parish of Canongate, the obligation to pay any portion of the said annuity shall cease and determine, and after the death or demission of all the thirteen ministers now officiating in the city churches and of the minister of the Canongate parish, when the number of city ministers having claims for their stipends on the permanent stipend fund will be reduced to ten, the bond of annuity granted by the magistrates and council in terms of the first-recited Act, and of schedule (A.) annexed thereto, shall be held to be cancelled, and the security which the commissioners now enjoy under the said first-recited Act over the revenues and properties of the city shall cease and determine; and it shall thereafter be in the power of the commissioners either to provide stipends, of such amount as they shall think fit, out of the foresaid permanent stipend fund, as vacancies occur, for successors to all or any of the said three ministers of the ancient royalty, or if the commissioners shall, in the exercise of their discretion, determine not to provide stipends for a successor or successors to any one or more of such three ministers, no successor shall be appointed, and the charge shall thereupon lapse and become extinct in the same way and manner as is provided respecting other charges under the twenty-first section of the first-recited Act; and a rearrangement of the charges and of the boundaries of the city parishes shall in such case be made in conformity with the powers conferred by the twenty-third section of the first-recited Act respecting other charges suppressed by the said Act: provided that any vacancy which may occur or may have occurred before the passing of this Act, by the death or demission of any of the eight ministers in the ancient royalty of the city, and which vacancy has not been filled up before the passing of this Act, shall be dealt with, as respects the payment of a restricted amount of annuity by the magistrates and council, to the commissioners, in the same manner as is herein-before provided for in the case of vacancies occurring after the passing of this Act; provided further, that in the event of that portion of the Permanent Stipend Fund, consisting of four thousand three hundred and thirteen pounds, which is now derived from seat or pew rents, together with the restricted amount of terminable annuities hereby made payable to the Commissioners, proving at any time to be of less amount than the sums herein-before stated, the magistrates

When vacancies occur, how to be provided for.

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and council are hereby authorized and required to pay to the commissioners such sums as may be necessary to make up any such deficiency in the same manner, and subject to the same conditions as are imposed by sections eight and nine of the first-recited Act, respecting payment of the annuity of four thousand two hundred pounds thereby required to be paid; but declaring that no deficiency created by the appointment of successors to all or any of the said three ministers of the ancient royalty who may have deceased or demitted, by providing stipends for any such successors shall be made up or provided by the magistrates and council.

Act to be recorded in public registers.

8. As soon as the said annuity of four thousand two hundred pounds per annum, under the bond, granted in terms of the first-recited Act, and of schedule (A.) annexed thereto, shall cease to be payable in manner before provided, and after the death or demission of all the thirteen ministers now officiating in the city churches and of the minister of Canongate Church, but not sooner, the real security created by the first-recited Act shall be extinguished for ever thereafter; and a copy of this Act, recorded in the General Register of Sasines kept at Edinburgh, and in the Register of Sasines for the burgh of Edinburgh, shall to all intents and purposes be, and shall be held to be, equivalent to a discharge and renunciation, in favour of the debtors in the said bond of annuity, of all the heritable property belonging to the magistrates and council, so as to free and relieve the same of the real burden created by the first-recited Act, and the recording of the same in the said Register of Sasines, and shall also be held equivalent to an intimated retrocession of the debts and rights and to actual re-delivery of the moveable property of the said magistrates and council, so as to free and relieve the same in all time to come from all lien over the same in favour of the Commissioners or any of the said ministers; and the keepers of the said General Register of Sasines and Burgh Register of Sasines are, upon a copy of this Act being presented to them for that purpose on behalf of the magistrates and council, hereby authorized and required to record the same in the said respective registers.

Rate of assessment to be reduced in amount.

9. The bonds of annuity granted in terms of the first-recited Act, and schedule (B.) annexed thereto, in favour of the commissioners for behoof of Doctor John Hunter, Doctor James M'Letchie, and Doctor George Smith, during their several lives, being now extinguished by reason of their decease, and the maximum assessment being, in consequence, now limited to threepence per pound, so much of the eleventh section of the first-recited Act as authorizes

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the magistrates and council to levy the said assessment to any extent not exceeding threepence per pound on the rental of the property situated within the ancient and extended royalties as declared and limited by the second-recited Act, shall be repealed; and from and after the term of Whitsunday one thousand eight hundred and seventy the said assessment shall not exceed one penny and one halfpenny per pound on the rental of the property situated within the said ancient and extended royalties; and such assessment shall be further reduced from time to time by the magistrates and council, as nearly as may be practicable, in the same proportion in which the annuities herein-before made payable shall be reduced in amount, and the said assessment shall cease when the said annuities cease to be payable as herein-before provided; but only so long as no deficiency in the permanent stipend fund shall require to be made up, to secure payment of the stipends of the present incumbents, and declaring that, so long as any such assessment shall be levied over the ancient and extended royalties, it shall in like manner be levied to the same extent over the whole lands and heritages in the parish of Canongate, in the same way and manner in which it may be levied over the ancient and extended royalties under the said recited Acts and this Act: Provided that all arrears of annuity tax formerly leviable within any part of the parliamentary burgh of Edinburgh shall, after the term of Whitsunday one thousand eight hundred and seventy, cease to be recoverable.

Church door collections to be paid to the commissioners.

10. From and after the term of Martinmas one thousand eight hundred and sixty-nine, the whole ordinary church door collections or offerings, other than collections made for special purposes, shall be accounted for and paid over to the commissioners by the kirk sessions of each of the said churches; and the kirk sessions thereof shall not be required to render any account of their expenditure of the said ordinary church door collections or offerings to the board of supervision for the management of the poor established by the Act eighth and ninth Victoria, chapter eighty-three, the provisions of which Act shall not after the period last-mentioned be applicable to the collections in the said churches.

Church door collections, how to be applied.

11. The commissioners shall, from and after the term of Martinmas one thousand eight hundred and sixty-nine apply, either by themselves or through the kirk sessions, as they shall think fit, the produce of the foresaid ordinary church door collections or offerings, for defraying the expenses connected with the said churches, other than ministers stipends, including salaries of precentors,

doorkeepers, and other church officers, and for cleaning, heating, and lighting the churches; for communion elements, maintenance, and repairs of the churches, fire insurance, and all other such expenses as specified in the sixth and seventh sections of the first-recited Act; and any surplus arising on the proceeds of the church door collections or offerings after providing for the foresaid preferable burdens thereon may be applied by the commissioners in aid of the permanent stipend fund, and any surplus arising on the permanent stipend fund after providing for the foresaid preferable burdens thereon may in like manner be applied in aid of the ordinary church door collections towards payment of the expenses connected with the proper maintenance of the churches as aforesaid: Provided that at a meeting of the elders and male members of any church, specially called to consider the question, it shall be lawful for the meeting to resolve, by a majority of those present, to defray, in all time coming, the foresaid miscellaneous expenses incurred for such church, by making one or more special collections annually for that purpose; and on such resolution being communicated to and approved of by the commissioners it shall be binding on the elders and members of such church in all time coming; and after such approval the ordinary church door collections or offerings shall be applied to the purposes for which they are now legally applicable, in the same manner as if this Act had not been passed.

Patronage of churches to be exercised by the elders and male communicants.

12. So much of the twenty-second section of the first-recited Act as requires payment to be made by the commissioners or kirk session to the city treasurer, for behoof of the magistrates and council, of six hundred pounds as the value and price of the right of patronage of any one or of each of the parochial charges in the city, before the right of patronage shall be transferred by the magistrates and council to and vested in the kirk session of such church for the purpose of being in all time thereafter lawfully exercised by the elders and other male members of the church in which there is a vacancy, or a majority of their number in full communion, and whose names have stood on the roll of communicants of such church for three years preceding the occurrence of the vacancy, shall be repealed; and from and after the passing of this Act the right of patronage of each of the city churches shall be transferred to and vested in the kirk session thereof, and shall be exercised by the elders and communicants in the manner provided for in the twenty-second section of the said first-recited Act, without the payment of any price for the same, as fully and

freely as if the said sum of six hundred pounds had been paid to the magistrates and council for each such right of patronage.

Statutes inconsistent with this repealed.

13. All laws, statutes, and usages inconsistent with the provisions of this Act are hereby repealed.

Act to be construed with recited Acts.

14. This Act shall be construed as one with the recited Acts, in so far as the provisions of these Acts are not repealed by or inconsistent with the provisions of this Act.

Annuity Tax (Edinburgh).

A

B I L L

[AS AMENDED IN COMMITTEE]

To abolish the Annuity Tax, or Ministers Money, in the parish of Canongate within Edinburgh, and to make other provisions respecting the stipend of the ministers in that parish, and of the ministers in the City Parishes.

(*Prepared and brought in by Mr. McLaren, Mr. Miller, and Mr. Crum-Ewing.*)

Ordered, by The House of Commons, *to be Printed,* 6 *July* 1869.

[Bill 198.]

Under 1 *oz.*

A

B I L L

FOR

Amending the law with respect to rates assessed upon occupiers for short terms.

A.D. 1869.

WHEREAS it is expedient to amend the law relating to the collection of poor rates assessed upon occupiers of hereditaments held subject to rents payable at short terms, and to the making and collecting of the poor rate in connexion therewith:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Occupiers of tenements whose rents are payable at short terms to pay rates and deduct the same from their rents.

1. When any rateable hereditament shall be let upon a tenancy, so that the rent shall be reserved to be paid at a shorter period than quarterly, the occupier shall continue to be rated, and to be liable to pay the poor rate assessed upon the said hereditament, in like manner as by the law now in force, but shall be entitled to deduct the amount paid by him from the rent due or accruing due to the owner, and every payment of such rate shall be a valid discharge of the rent to the extent of the rate so paid.

Proviso for agreements.

Provided that nothing herein contained shall prevent the overseers from entering into an agreement to collect the rate from the owner, wherever such agreement may now lawfully be made.

Limitation upon the amount of the rate to be demanded and paid by the occupier of such tenements.

2. No such occupier shall be compelled to pay to the overseers at one time a greater amount of the rate than would be due for one quarter of the year, nor more than twice the amount of the rent payable according to the period for which the same is reserved.

Construction payment of the rate.

3. Every payment of the rate by such occupier, notwithstanding the amount thereof may be deducted from his rent as herein provided, shall be deemed a payment by the occupier for the purpose of any qualification or franchise which depends upon the payment of the poor rate.

Allowance in ascertaining rateable value.

4. In ascertaining the rateable value of any such hereditament as aforesaid, an allowance to the extent of twenty-five per cent. from

the gross estimated rental, over and above all other deductions which by law may be the subject of allowance, shall be made in respect of the liability imposed upon the owner by this Act.

Owner may appeal against valuation list and rate.

5. Every owner of any such hereditament as aforesaid shall have the same right of appeal (subject to the same conditions and consequences) against the valuation lists and the poor rates made in conformity therewith as if he were the occupier thereof.

The overseer to state the period for which poor rate is made. Proviso.

6. From and after the passing of this Act, the overseers of every parish when they make a poor rate shall set forth in the title of the said rate the period for which the same is estimated; provided that if the necessities of the parish shall require it another rate may be made before such period shall have elapsed.

Overseers may make poor rate payable by instalments.

7. The overseers who make the poor rate for a period exceeding three months may declare that the same shall be paid by instalments at such times as they shall specify, and thereupon each instalment only shall be enforceable as and when it falls due, and the payment of any such instalment shall, as respects any qualification or franchise depending upon the payment of the poor rate, be deemed a payment of such rate in respect of the period to which such instalment applies.

Provision for successive occupiers, and for occupiers coming into unoccupied hereditaments.

8. If the occupier assessed in the rate when made shall cease to occupy before the rate shall have been wholly discharged, or if the hereditament being unoccupied at the time of the making of the rate become occupied during the period for which the rate is made, the overseers shall enter in the rate book the name of the person who succeeds or comes into the occupation, as the case may be, and the date when such occupation commences, so far as the same shall be known to them, and such occupier shall thenceforth be deemed to have been actually rated from the day of the entry so made by the overseer, and shall be liable to pay so much of the rate as shall be proportionate to the time between the commencement of his occupation and the expiration of the period for which the rate was made, in like manner, and with the like remedy of appeal, as if he had been rated when the rate was made; and the twelfth section of the statute 17 Geo. 2. c. 38. shall be repealed: provided that nothing herein contained shall repeal or affect any provision contained in any local Act of Parliament which applies to the subject matter of this section.

When the poor rate shall be deemed to be made.

9. A poor rate shall be deemed to be made on the day when it is allowed by the justices, and if the justices sever in their allowance then on the day of the last allowance.

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Interpretation clause.

10. The word "overseer" shall include every authority that makes an assessment for the poor rate, or that collects the same; the word "owner" shall mean any person receiving or claiming the rent of the hereditament for his own use, or receiving the same for the use of any corporation aggregate, or of any public company, or of any landlord or lessee who shall be a minor, a married woman, or insane, or for the use of any person who shall not be usually resident within twenty miles from the parish in which the hereditament shall be situated; the word "parish" shall signify every place for which a separate overseer can be appointed.

Title.

11. This Act may be cited as "The Poor Rate Assessment and Collection Act, 1869."

Assessed Rates.

A

BILL

For amending the law with respect to rates assessed upon occupiers for short terms.

(*Prepared and brought in by Mr. Goschen, Mr. Secretary Bruce, and Mr. John Bright.*)

Ordered, by The House of Commons, *to be Printed,* 26 *February* 1869.

[Bill 21.]

Under 1 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE]

FOR

Amending the Law with respect to Rates assessed upon occupiers for short terms. A.D. 1869.

WHEREAS it is expedient to amend the law relating to the collection of poor rates assessed upon occupiers of hereditaments held subject to rents payable at short terms, and to the making and collecting of the poor rate in connexion therewith:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Occupiers of tenements let for short terms may deduct the poor rate paid by them from their rents.

1. The occupier of any rateable hereditament let to him for a term less than three months shall be entitled to deduct the amount paid by him in respect of any poor rate assessed upon such hereditament from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate so paid.

Amount of rate payable by occupier.

2. No such occupier shall be compelled to pay to the overseers at one time a greater amount of the rate than would be due for one quarter of the year.

Owners may agree to pay the rate, and be allowed a commission.

3. In case the rateable value of any hereditament does not exceed the amount herein-after specified, and the owner of such hereditament is willing to enter into an agreement in writing with the overseers, to become liable to them for the poor rates assessed in respect of such hereditament, for any term not being less than one year from the date of such agreement, and to pay the poor rates whether the hereditament is occupied or not, the overseers may agree with the owner to receive the rates from him, and to allow to him a commission not exceeding twenty-five per cent. on the amount thereof, subject to the following provisions:—

1. That the owner shall deliver to the overseers at the time of entering into such agreement, and from time to time there-

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after when required by them in writing, a list containing the names of the actual occupiers of the several hereditaments comprised in such agreement.

2. That if the owner refuses or neglects to deliver such list when so required, he shall not be entitled to deduct or receive the commission agreed to be allowed under this section in respect of any rate then remaining due, but shall be liable to and shall pay such rate in full.

3. That this section shall not extend to any hereditaments the rateable value of which exceeds twenty pounds, if situate in the metropolis, or exceeds ten pounds if situate elsewhere.

Constructive payment of the rate.

4. Every payment of a rate by such occupier, notwithstanding the amount thereof may be deducted from his rent as herein provided, and every payment of a rate by the owner, notwithstanding the allowance of the commission under this Act, shall be deemed a payment of the full rate by the occupier for the purpose of any qualification or franchise which as regards rating depends upon the payment of the poor rate.

Clause A. Liability of owner under agreement.

5. Where the owner has agreed with the overseers to pay the poor rate in conformity with the provisions of this Act, the sums due from him under such agreement, together with the costs and charges of levying and receiving the same, may be levied on the goods of the owner, and be recovered from him in the same way as poor rates may be recovered from the occupier.

Clause B. Recovery of Rates unpaid by the owner.

6. Notwithstanding any such agreement for payment of the poor rates by the owner, the goods and chattels of the occupier of any hereditament comprised in such agreement shall be liable to be distrained and sold for payment of such rates as may accrue during his occupation of the premises, at any time whilst such rates remain unpaid by the owner.

Owner may appeal against valuation list and rate.

7. Every owner of any such hereditament as aforesaid shall have the same right of appeal (subject to the same conditions and consequences) against the valuation lists and the poor rates made in conformity therewith as if he were the occupier thereof.

The overseer to state the period for which poor rate is made. Proviso.

8. The overseers of every parish when they make a poor rate shall set forth in the title of the rate the period for which the same is estimated; provided that if the necessities of the parish shall require it another rate may be made before such period shall have elapsed.

Overseers may make poor rate

9. The overseers who make the poor rate for a period exceeding three months may declare that the same shall be paid by instal-

ments at such times as they shall specify, and thereupon each instalment only shall be enforceable as and when it falls due, and the payment of any such instalment shall, as respects any qualification or franchise depending upon the payment of the poor rate, be deemed a payment of such rate in respect of the period to which such instalment applies. A.D. 1869. payable by instalments.

10. If the occupier assessed in the rate when made shall cease to occupy before the rate shall have been wholly discharged, or if the hereditament being unoccupied at the time of the making of the rate become occupied during the period for which the rate is made, the overseers shall enter in the rate book the name of the person who succeeds or comes into the occupation, as the case may be, and the date when such occupation commences, so far as the same shall be known to them, and such occupier shall thenceforth be deemed to have been actually rated from the day of the entry so made by the overseer, and shall be liable to pay so much of the rate as shall be proportionate to the time between the commencement of his occupation and the expiration of the period for which the rate was made, in like manner, and with the like remedy of appeal, as if he had been rated when the rate was made; and the twelfth section of the statute 17 Geo. 2. c. 38. shall be repealed: provided that nothing herein contained shall repeal or affect any provision contained in any local Act of Parliament which applies to the subject matter of this section. Provision for successive occupiers, and for occupiers coming into unoccupied hereditaments.

11. A poor rate shall be deemed to be made on the day when it is allowed by the justices, and if the justices sever in their allowance then on the day of the last allowance. When the poor rate shall be deemed to be made.

12. The overseers in making out the poor rate shall, notwithstanding any such agreement as aforesaid, enter in the rate the name of every occupier of any hereditament included in such agreement, and such occupier shall be deemed to be duly rated for any qualification or franchise as aforesaid; and if any overseer wilfully and without reasonable cause omits the name of the occupier of any rateable hereditament from the rate, such overseer shall for every such omission be liable on summary conviction to a penalty not exceeding two pounds: provided, that any occupier whose name has been so omitted shall, notwithstanding such omission and that no claim to be rated has been made by him, be entitled to every qualification and franchise depending upon rating, in the same manner as if his name had not been so omitted. Clause C. Overseers to insert names of all occupiers in the rate. Penalty for omission. Saving of franchises.

13. The word "overseer" shall include every authority that makes an assessment for the poor rate, or that collects the same; the word Interpretation clause.

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"owner" shall mean any person receiving or claiming the rent of the hereditament for his own use, or receiving the same for the use of any corporation aggregate, or of any public company, or of any landlord or lessee who shall be a minor, a married woman, or insane, or for the use of any person who shall not be usually resident within the parish in which the hereditament shall be situated; the word "parish" shall signify every place for which a separate overseer can be appointed, and the word "Metropolis" shall include only the metropolis as defined by the Metropolis Management Act, 1855.

CLAUSE D. Application of Act.

14. This Act shall not extend to Scotland or to Ireland.

Title.

15. This Act may be cited as "The Poor Rate Assessment and Collection Act, 1869," and shall come into operation on the twenty-ninth of September One thousand eight hundred and sixty-nine.

Assessed Rates.

A

B I L L

[AS AMENDED IN COMMITTEE]

For amending the Law with respect to Rates assessed upon occupiers for short terms.

(Prepared and brought in by Mr. Goschen, Mr. Secretary Bruce, and Mr. John Bright.)

Ordered, by The House of Commons, *to be Printed,* 8 *June* 1869.

[Bill 149.] *Under* 1 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

FOR

Amending the Law with respect to Rates assessed upon Occupiers for short terms. A.D. 1869.

WHEREAS it is expedient to amend the law relating to the collection of poor rates assessed upon occupiers of hereditaments held for short terms, and to the making and collecting of the poor rate in connexion therewith:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Occupiers of tenements let for short terms may deduct the poor rate paid by them from their rents.

1. The occupier of any rateable hereditament let to him for a term not exceeding three months shall be entitled to deduct the amount paid by him in respect of any poor rate assessed upon such hereditament from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate so paid.

Amount of rate payable by occupier.

2. No such occupier shall be compelled to pay to the overseers at one time a greater amount of the rate than would be due for one quarter of the year.

Owners may agree to pay the rate, and be allowed a commission.

3. In case the rateable value of any hereditament does not exceed the amount herein-after specified, and the owner of such hereditament is willing to enter into an agreement in writing with the overseers, to become liable to them for the poor rates assessed in respect of such hereditament, for the term of one year from the date of such agreement, and to pay the poor rates whether the hereditament is occupied or not, the overseers may agree with the owner to receive the rates from him, and to allow to him a commission not exceeding twenty-five per cent. on the amount thereof, subject to the following provisions:—

1. That the owner shall deliver to the overseers at the time of entering into such agreement, and from time to time there-

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after when required by them in writing, a list containing the names of the actual occupiers of the several hereditaments comprised in such agreement.

2. That if the owner refuses or neglects to deliver such list when so required, he shall not be entitled to deduct or receive the commission agreed to be allowed under this section in respect of any rate then remaining due, but shall be liable to and shall pay such rate in full.

3. That this section shall not extend to any hereditament the rateable value of which exceeds twenty pounds, if situate in the metropolis, or exceeds eight pounds if situate elsewhere.

Vestries may order the owner to be rated instead of the occupier.

4. The vestry of any parish may from time to time order that the owners of all dwelling houses to which section three of this Act extends, situate within such parish, shall be rated to the poor rate in respect of such dwelling houses, instead of the occupiers, on all rates made after the date of such order; and thereupon and so long as such order shall be in force the following enactments shall have effect:

1. The overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or deduction of fifteen per centum from the amount of the rate:

2. If the owner of one or more such dwelling houses shall give notice to the overseers in writing that he is willing to be rated for any term not being less than one year in respect of all such dwelling houses of which he is the owner, whether the same be occupied or not, the overseers shall rate such owner accordingly, and allow to him a further abatement or deduction not exceeding fifteen per centum from the amount of the rate during the time he is so rated:

3. Every owner rated, or liable to be rated under this section, shall deliver to the overseers from time to time when required by them in writing a list containing the names of the actual occupiers of the dwelling houses for which he is so rated or liable to be rated; and if any such owner wilfully omits to deliver such list when required, or wilfully misstates therein the name of any occupier, he shall for every such omission or misstatement be liable, on summary conviction, to a penalty not exceeding two pounds:

4. The vestry may by resolution rescind any such order after a day to be fixed by them, such day being not less than six months after the passing of such resolution, but the order shall continue in force with respect to all rates made before the date on which the resolution takes effect.

A.D. 1869.

Repeal of 13 & 14 Vict. c. 99. so far as it applies to the poor rate.

5. The Statute thirteenth and fourteenth Victoria, chapter ninety-nine, with respect to the rating of small tenements, is hereby repealed, so far as it applies to any poor rate made after this Act comes into operation.

Constructive payment of the rate.

6. Every payment of a rate by the occupier, notwithstanding the amount thereof may be deducted from his rent as herein provided, and every payment of a rate by the owner, whether he is himself rated instead of the occupier, or has agreed with the occupier or with the overseers to pay such rate, and notwithstanding any allowance or deduction which the overseers are empowered to make from the rate, shall be deemed a payment of the full rate by the occupier for the purpose of any qualification or franchise which as regards rating depends upon the payment of the poor rate.

Where owners omit to pay rates the occupiers paying the same may deduct the amount from the rent.

7. Where an owner who has undertaken, whether by agreement with the occupier, or with the overseers, to pay the poor rates, or has otherwise become liable to pay the same, omits or neglects to pay any such rate, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such rate shall be a valid discharge of the rent to the extent of the rate so paid.

Notice to occupiers of rates in arrear.

8. Section twenty-eight of "The Representation of the People Act, 1867," with respect to notice to be given of rates in arrear, shall apply to occupiers of premises capable of conferring the parliamentary franchise, although the owners of such premises have become liable for the rates assessed thereon under the provisions of this Act.

Liability of owner under agreement.

9. Where the owner has become liable to the payment of the poor rates, the rates due from him, together with the costs and charges of levying and receiving the same, may be levied on the goods of the owner, and be recovered from him in the same way as poor rates may be recovered from the occupier.

Recovery of rates unpaid by the owner.

10. Notwithstanding the owner of any such rateable hereditament as aforesaid has become liable for payment of the poor rates assessed thereon, the goods and chattels of the occupier shall be liable to be distrained and sold for payment of such rates as may accrue during his occupation of the premises, at any time whilst such rates remain unpaid by the owner, subject to the following provisions:

1. That no such distress shall be levied unless the rate has been demanded in writing by the overseers from the occupier, and the occupier has failed to pay the same within fourteen days after the service of such demand:

A.D. 1869.

2. That no greater sum shall be raised by such distress than shall at the time of making the same be actually due from the occupier for rent of the premises on which the distress is made:

3. That any such occupier shall be entitled to deduct the amount of rates for which such distraint is made, and the expense of distraint, from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate and expenses paid.

Owner may appeal against valuation list and rate.

11. Every owner of any hereditament for the rates of which he has become liable shall have the same right of appeal (subject to the same conditions and consequences) against the valuation lists and the poor rates made in conformity therewith as if he were the occupier thereof.

The overseer to state the period for which poor rate is made.

Proviso.

12. The overseers of every parish when they make a poor rate shall set forth in the title of the rate the period for which the same is estimated, and if the same is payable by instalments the amount of each instalment and the date at which each instalment is payable; provided that if the necessities of the parish shall require it another rate may be made before such period shall have elapsed.

Overseers may make poor rate payable by instalments.

13. The overseers who make the poor rate for a period exceeding three months may declare that the same shall be paid by instalments at such times as they shall specify, and thereupon each instalment only shall be enforceable as and when it falls due, and the payment of any such instalment shall, as respects any qualification or franchise depending upon the payment of the poor rate, be deemed a payment of such rate in respect of the period to which such instalment applies.

Provision for successive occupiers, and for occupiers coming into unoccupied hereditaments.

14. If the occupier assessed in the rate when made shall cease to occupy before the rate shall have been wholly discharged, or if the hereditament being unoccupied at the time of the making of the rate become occupied during the period for which the rate is made, the overseers shall enter in the rate book the name of the person who succeeds or comes into the occupation, as the case may be, and the date when such occupation commences, so far as the same shall be known to them, and such occupier shall thenceforth be deemed to have been actually rated from the date so entered by the overseer, and shall be liable to pay so much of the rate as shall be proportionate to the time between the commencement of his occupation and the expiration of the period for which the rate was made, in like manner, and with the like remedy of appeal, as if he had been

rated when the rate was made; and an outgoing occupier shall remain liable in like manner for so much and no more of the rate as is proportionate to the time of his occupation within the period for which the rate was made; and the twelfth section of the statute 17 Geo. 2. c. 38. shall be repealed.

When the poor rate shall be deemed to be made.

15. A poor rate shall be deemed to be made on the day when it is allowed by the justices, and if the justices sever in their allowance then on the day of the last allowance.

Evidence of making and publication of rates.

16. The production of the book purporting to contain a poor rate, with the allowance of the rate by the justices, shall, if the rate is made in the form prescribed by law, be primâ facie evidence of the due making and publication of such rate.

Overseers to insert names of all occupiers in the rate.

17. The overseers in making out the poor rate shall, in every case, whether the rate is collected from the owner or occupier, or the owner is liable to the payment of the rate instead of the occupier, enter in the occupiers column of the rate book the name of the occupier of every rateable hereditament, and such occupier shall be deemed to be duly rated for any qualification or franchise as aforesaid; and if any overseer wilfully, negligently, and without reasonable cause omits the name of the occupier of any rateable hereditament from the rate, such overseer shall for every such omission be liable on summary conviction to a penalty not exceeding two pounds: provided, that any occupier whose name has been so omitted shall, notwithstanding such omission and that no claim to be rated has been made by him, be entitled to every qualification and franchise depending upon rating, in the same manner as if his name had not been so omitted.

Penalty for omission.

Saving of franchises.

Interpretation clause.

18. The word "overseer" shall include every authority that makes an assessment for the poor rate; the words "poor rate" shall mean the assessment for the relief of the poor, and for the other purposes chargeable thereon according to law, and in the metropolis shall extend to every rate made by the overseers, and chargeable upon the same property as the poor rate; the word "owner" shall mean any person receiving or claiming the rent of the hereditament for his own use, or receiving the same for the use of any corporation aggregate, or of any public company, or of any landlord or lessee who shall be a minor, a married woman, or insane, or for the use of any person for whom he is acting as agent; the word "parish" shall signify every place for which a separate overseer can be appointed, and the word "metropolis" shall include only the metropolis as defined by the Metropolis Management Act, 1855.

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19. This Act shall not extend to Scotland or to Ireland.

Application of Act.

20. This Act may be cited as "The Poor Rate Assessment and Collection Act, 1869," and shall come into operation on the twenty-ninth of September One thousand eight hundred and sixty-nine.

Title.

Assessed Rates.

A

BILL

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

For amending the Law with respect to Rates assessed upon Occupiers for short terms.

(Prepared and brought in by Mr. Goschen, Mr. Secretary Bruce, and Mr. John Bright.)

Ordered, by The House of Commons, *to be Printed,* 24 *June* 1869.

[Bill 178.] *Under* 1 *oz.*

Attorneys and Solicitors Remuneration Bill.

ARRANGEMENT OF CLAUSES.

Preliminary.

Clauses.
1. Short title.
2. Extent of Act.
3. Interpretation.

PART I.—*Agreements between Attorneys or Solicitors and their Clients.*

4. Agreements by attorneys and solicitors with their clients.
5. Agreements not to affect third parties.
6. Agreements to exclude further claims.
7. Saving of liens.
8. Agreements not to relieve from negligence.
9. Examination and enforcement of agreements.
10. Unreasonable agreements may be set aside.
11. Unreasonable agreements may be re-opened after payment.
12. Interests in actions not to be purchased.
13. Frauds on creditors.

PART II.—*Remuneration in Cases where there is no Agreement.*

14. Security may be taken for future costs.
15. Attorney or solicitor being a trustee.
16. Interest on disbursements.
17. Taxing officer may have regard to nature of services.

A

B I L L

TO

Amend the law relating to the Remuneration of Attorneys and Solicitors. A.D. 1869.

WHEREAS it is expedient to amend the law relating to the remuneration of attorneys and solicitors:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as "the Attorneys and Solicitors Remuneration Act." Short title.

2. This Act shall not extend to Scotland or Ireland. Extent of Act.

3. Words have the same meaning in this Act as in the Acts of the session of the sixth and seventh years of Her Majesty, chapter seventy-three, and of the session of the twenty-third and twenty-fourth years of Her Majesty, chapter one hundred and twenty-seven. Interpretation.

The word "client" means and includes any person who as a principal, or on behalf of another person, by his authority or by authority of law, retains or employs, or is about to retain or employ an attorney or solicitor, and also any person who is or may be liable for the payment of the fees, charges, costs, or disbursements of an attorney or solicitor.

PART I.—*Agreements between Attorneys or Solicitors and their Clients.*

4. An attorney or solicitor may make an agreement with his client respecting the amount and manner of payment of his remuneration for past or future services, fees, charges, or disbursements, either by a gross sum or by commission or per-centage or Agreements by attorneys and solicitors with their clients.

A.D. 1869.

otherwise, and either at a greater or at a less rate than the rate at which he would otherwise be entitled to be remunerated, subject to the provisions and conditions in this part of this Act contained.

Agreements not to affect third parties.

5. Such an agreement shall not affect the amount of, or any rights or remedies for the recovery of, any costs recoverable from the client by any other person, or payable to the client by any other person, and any such other person may require any costs payable or recoverable by him to or from the client to be taxed according to the rules for the time being in force for the taxation of such costs, unless such person has otherwise agreed.

Agreements to exclude further claims.

6. Such an agreement shall be deemed to exclude any further claim of the attorney or solicitor beyond the terms of the agreement in respect of any services, fees, charges, or disbursements in relation to the conduct and completion of the business in reference to which the agreement is made, except such services, fees, charges, or disbursements, if any, as are expressly excepted by the agreement.

Saving of liens.

7. Such an agreement shall not, unless by express stipulation, defeat any lien of the attorney or solicitor as such on the documents, moneys, or securities of his client.

Agreements not to relieve from negligence.

8. A provision in any such agreement that the attorney or solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such attorney or solicitor, shall be wholly void.

Examination and enforcement of agreements.

9. Every question respecting the validity or construction of any such agreement may be examined and determined, and the agreement may be enforced, without suit or action, on motion or petition of any person a party thereto or liable to pay or entitled to recover the costs, fees, charges, or disbursements in respect of which the agreement is made, by the court in which the business was done, or a judge thereof, or if the business was not done in any court, then by any superior court of law or equity or a judge thereof where the amount payable under the agreement exceeds fifty pounds, and when such amount does not exceed fifty pounds, by the judge of a county court which would have jurisdiction in an action upon the agreement; but the court or judge may refuse to make any rule or order on such motion or petition, and may give leave to the person seeking to enforce the agreement to bring an action at law, or to take such other proceedings as he may be advised.

A.D. 1869.

Unreasonable agreements.

10. The court or judge before whom any such agreement is sought to be enforced or set aside, may, if satisfied that any undue advantage was taken by any party thereto in making the agreement, require the agreement to be given up, and may direct the costs, fees, charges, and disbursements to be taxed according to the rules for the time being in force for the taxation of the same.

Courts may re-open agreements.

11. When the amount agreed for under any such agreement has been paid by or on behalf of the client, any court or judge having jurisdiction to examine and enforce such an agreement may, upon application by the person who has paid such amount, within twelve months after the payment thereof, if it appears to such court or judge that the special circumstances of the case require the agreement to be re-opened, re-open the same, and order the costs, fees, charges, and disbursements to be taxed, and any portion of the amount received by the attorney or solicitor to be repaid by him, on such terms and conditions as to the court or judge may seem just.

Interests in actions not to be purchased.

12. Nothing in this Act contained shall be construed to give validity to any purchase by an attorney or solicitor of the interest of his client in any suit or proceeding to be brought or maintained.

Frauds on creditors.

13. Nothing in this Act contained shall give validity to any disposition, contract, settlement, conveyance, delivery, dealing, or transfer, which may be void or invalid against a trustee or creditor in bankruptcy, arrangement, or composition, under the provisions of the laws relating to bankruptcy.

Part II.—*Remuneration in Cases where no Agreement is made.*

Security may be taken for future costs.

14. An attorney or solicitor may take security from his client for his future fees, charges, and disbursements, to be ascertained by taxation or otherwise.

Attorney or solicitor being a trustee.

15. When an attorney or solicitor is hereafter appointed a trustee or executor under any deed or will, then unless the deed or will otherwise directs, he may by himself or his partners act as solicitor or attorney in all matters relating to the deed or will, and shall be entitled to his professional costs and charges in the same manner as if he were not such trustee or executor, subject to the provisions following; that is to say,

(1.) If the deed or will provides a certain remuneration for his services he shall not under this section be entitled to any further remuneration:

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(2.) If the deed or will appoints co-trustees or co-executors jointly with him, he shall not so act or be entitled to such costs or charges without the consent in writing of his co-trustees or co-executors:

(3.) Before payment of any part of such costs or charges he shall submit an account of the same to the taxing officer of a superior court of equity, and such taxing officer shall have power either to allow the same, or, if he thinks any part thereof unnecessary or unreasonable, to tax such part or the whole thereof in the ordinary manner.

Interest on disbursements.

16. Subject to any general rules or orders hereafter to be made, upon every taxation of costs, fees, charges, or disbursements the taxing officer may allow interest at such rate and from such time as he thinks just on monies disbursed by the attorney or solicitor for his client, and on monies of the client in the hands of the attorney or solicitor.

Taxing officer may have regard to the character of the services.

17. Upon any taxation of costs, the taxing officer may in determining the remuneration to be allowed to the attorney or solicitor for his services, have regard, subject to any general rules or orders hereafter to be made, not only to the length of documents or the time occupied in rendering services, but also to the skill, labour, and responsibility involved.

Attorneys and Solicitors Remuneration.

A

BILL

To amend the law relating to the Remuneration of Attorneys and Solicitors.

(*Prepared and brought in by* Mr. Rathbone, Mr. Morley, and Mr. George Gregory.)

Ordered, by The House of Commons, *to be Printed,* 3 *August* 1869.

[Bill 260.]

Under 1 *oz.*

Bankruptcy Bill.

ARRANGEMENT OF CLAUSES.

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3. Commencement of Act.
4. Definitions.
5. Exclusion of companies and large partnerships.

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8. Proceedings if debt of petitioning creditor is contested.
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11. Creditors bound by bankruptcy proceedings.
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13. Meeting of creditors for appointment of persons to administer bankrupt's property.
14. Description of bankrupt's property divisible amongst creditors.
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[Bill 50.]

Clause.

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19. Conduct of trustee, and appeal to Court against trustee.
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22. Disclaimer as to onerous property.
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24. Power of trustee to deal with property.
25. To allow bankrupt to manage property.
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30. Preferential debts.
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49. Status of undischarged bankrupt.

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50. Audit by comptroller in bankruptcy.
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57. Constitution of the London Bankruptcy Court.
58. Power of the Crown to appoint a new common law judge, if required.
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60. Salaries of officers.
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96. Penalty for concealing bankrupt's property.
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100. Estates of partners to be vested in same trustee.
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102. Joint and separate dividends.
103. Suits by trustee and bankrupt's partners.

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135. Power of the Lord Chancellor with respect to jurisdiction of existing Bankruptcy Courts.

A

B I L L

TO

Consolidate and amend the Law of Bankruptcy. A.D. 1869.

WHEREAS it is expedient to consolidate and amend the law relating to Bankruptcy:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as "The Bankruptcy Act, 1869." Short title.

2. This Act shall not, except in so far as is expressly provided, apply to Scotland or Ireland. Application of Act.

3. This Act shall come into operation on the first day of January one thousand eight hundred and seventy, which date is herein-after referred to as the commencement of this Act. Commencement of Act.

4. In this Act the expression "the Court" shall mean the court having jurisdiction in bankruptcy as by this Act provided: Definitions: "Court:"

"The registrar" shall mean the registrar of "the Court:" "Registrar:"

"Prescribed" shall mean prescribed by rules of Court to be made as in this Act provided: "Prescribed:"

"Property" shall include things in actions, obligations, easements, and every description of estate, interest, and profit, present or future, vested or contingent, arising out of or incident to property: "Property:"

"Debt" shall include any liability, obligation, or claim capable of resulting in a debt, or in payment of a sum of money, or of damages whether liquidated or unliquidated, or in delivery of money's worth: "Debt."

5. A partnership, association, or company, whether corporate or unincorporate, consisting of more than seven members, shall not be adjudged bankrupt under this Act. Exclusion of companies and large partnerships.

A.D. 1869.

Proceedings in Bankruptcy.

Adjudication.

Petition for adjudication in bankruptcy.

6. A single creditor, or two or more creditors if the debt due to such single creditor, or the aggregate amount of debts due to such several creditors, from any debtor, amount to a sum of not less than fifty pounds, may present a petition to the Court, praying that the debtor be adjudged a bankrupt, and alleging as the ground for such adjudication any one or more of the following acts or defaults, herein-after included under the expression "acts of bankruptcy:"

(1.) That the debtor has made a conveyance or assignment of all his real and personal estate to a trustee or trustees for the benefit of his creditors:

(2.) That the debtor has made a fraudulent conveyance, gift, delivery, or transfer of his real or personal estate, or any part thereof:

(3.) That execution issued against the debtor on any legal process for the purpose of obtaining payment of not less than twenty pounds has in the case of a trader been levied by seizure and sale of his goods, and in the case of a person not being a trader been returned unsatisfied in whole or in part:

(4.) That the creditor presenting the petition has served in the prescribed manner on the debtor a demand under his hand requiring him to pay a sum due, of an amount of not less than fifty pounds, and stating that in the event of non-compliance with the demand a petition will be filed against him praying that he may be adjudicated a bankrupt, and the debtor being a trader has for the space of seven days, or not being a trader has for the space of three weeks, succeeding the service of such demand, neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor:

But no person shall be adjudged a bankrupt on any of the above grounds unless the act of bankruptcy on which the adjudication is grounded has occurred within two months before the presentation of the petition for adjudication; moreover, the debt of the petitioning creditor must be a liquidated sum payable at the time when the petition is filed, and must not be a secured debt.

The expression "a trader" shall, for the purposes of this Act, include any person using the trade of merchandise by way of bargaining, exchange, barter, brocage, commission, consignment, or

otherwise, in gross or by retail; and any person who, either for himself or as agent or factor for others, seeks his living by buying and selling, or buying and letting for hire, goods or chattels, or by the workmanship or the conversion of goods or commodities; but a farmer, grazier, common labourer, workman for hire, or receiver general of taxes shall not, nor shall a member of any partnership, association, or company which cannot be adjudged bankrupt under this Act, be deemed as such a trader for the purposes of this Act.

Proceedings on petition.

7. A petition praying that a debtor may be adjudged a bankrupt, in this Act referred to as a bankruptcy petition, shall be served on such debtor. At the hearing the Court shall require proof of the debt of the petitioning creditor, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one or more of the alleged acts of bankruptcy, and, if satisfied with such proof, shall adjudge the respondent to be bankrupt. The Court may adjourn the petition, either conditionally or unconditionally, for the procurement of further evidence, or for any other just cause. The Court shall, if dissatisfied with the case made by the petitioner, dismiss the petition, with or without costs, as the Court thinks just.

Proceedings if debt of petitioning creditor is contested.

8. Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such amount as would justify the petitioner in filing a bankruptcy petition against him, and states that he is willing, if required by the Court, to give such security as the Court may think fit, for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing such debt, the Court, upon security (if any is required) being given, shall stay all proceedings on the petition for such time as may be required for trial of the question relating to such debt, either before the Court itself, or some other competent tribunal.

Advertisement of order of adjudication.

9. A copy of an order of the Court adjudging the debtor to be bankrupt shall forthwith be published in the London Gazette, and be advertised locally in such manner (if any) as the Court may direct, and the date of such order shall be the date of the adjudication for the purposes of this Act.

Definition of commencement of bankruptcy.

10. The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the act of bankruptcy being completed on which the order is made adjudging him to be bankrupt, and when more acts of bankruptcy than one are alleged in a petition the order shall state the particular act of bankruptcy on which the order is made.

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Creditors bound by bankruptcy procedings.

11. Where a debtor has been adjudicated a bankrupt, no creditor to whom the debtor is indebted in respect of any debt provable under the bankruptcy shall have any remedy in respect of such debt except in manner directed by this Act.

Power of Court, after presentation of petition, to restrain suits, &c. and appoint receiver.

12. The Court may, at any time after the presentation of a bankruptcy petition against the debtor, restrain further proceedings in any action, suit, execution, or other legal process against the debtor, upon such terms as the Court may think just. The Court may also, at any time after the presentation of such petition, appoint a receiver of the real and personal property of the debtor against whom the petition is presented, or of any part of such real and personal property.

Appointment of Trustee.

Meeting of creditors for appointment of persons to administer bankrupt's property.

13. When an order has been made adjudging a debtor bankrupt, herein-after referred to as an order of adjudication, the property of the bankrupt shall become divisible amongst his creditors in proportion to the debts proved by them in the bankruptcy; and for the purpose of effecting such division the Court shall summon a general meeting of his creditors, and the creditors assembled at such meeting shall and may do as follows:

1. They shall, by resolution, appoint some fit person, being a creditor, to fill the office of trustee of the property of the bankrupt, at such remuneration as they may determine, subject to any prescribed regulations:
2. They shall, subject as aforesaid, by resolution, declare the security to be given by the person so appointed before he enters on the office of trustee:
3. They shall, by resolution, appoint some other fit persons, not exceeding five in number, and being creditors qualified to vote at such first meeting of creditors as is in this Act, mentioned, to form a committee of inspection for the purpose of superintending the administration by the trustee of the bankrupt's property:
4. They may, by resolution, give directions as to the manner in which the estate is to be administered by the trustee, and it shall be the duty of the trustee to conform to such directions.

Descriptions of bankrupt's property divisible amongst creditors.

14. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars:

(1.) Property held by the bankrupt on trust for any person:

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(2.) Such rights of action as would not pass to the executors or administrators of the bankrupt if he were dead:

(3.) The tools (if any) of his trade, or, to a value not exceeding ten pounds, the necessary wearing apparel of himself, his wife and children:

But it shall comprise the following particulars:

(4.) All such property, real and personal, as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him during its continuance:

(5.) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property, real and personal, as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or during its continuance, except the power to appoint to an ecclesiastical benefice:

(6.) All goods and chattels being in the possession, order, or disposition of the bankrupt by the consent and permission of the true owner, of which goods and chattels the bankrupt is reputed owner, or of which he has taken upon himself the sale or disposition as owner.

Regulations as to first meeting of creditors.

15. The general meeting of creditors to be summoned as aforesaid by the Court, and hereafter referred to as the first meeting of creditors, shall be held in the prescribed manner and subject to the prescribed regulations as to the quorum, adjournment of meeting, and all other matters relating to the conduct of the meeting or the proceedings thereat.

Provided that,—

1. The meeting shall be presided over by the registrar:

2. No person shall be entitled to be present or to vote as a creditor unless previously thereto he has in the prescribed manner proved a debt provable under the bankruptcy to be due to him:

3. A creditor shall not vote at the said meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained:

4. A secured creditor shall, for the purpose of voting, be deemed to be a creditor only in respect of the balance (if any) due to him after deducting the value of his security; and the amount of such balance shall, until the security be realized, be determined by the trustee. He may, however, at or

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previously to the meeting of creditors, give up the security to the trustee, and thereupon he shall rank as a creditor in respect of the whole sum due to him:

5. A "secured creditor" shall in this Act mean any creditor holding any mortgage, charge, or lien on the bankrupt's estate as security for a debt due to him, or any creditor holding the security of a third person for the payment of a debt due to him from the bankrupt:

6. Votes may be given either personally or by proxy:

7. An ordinary resolution shall be decided by a majority in number and value of the creditors present personally or by proxy at the meeting and voting on such resolution:

8. A special resolution shall be decided by a majority in number, and five sixths in value, of the creditors present personally or by proxy at the meeting and voting on such resolution.

Devolution of property on trustee.

16. Until a trustee is appointed by the creditors the registrar shall be the trustee for the purposes of this Act, and immediately upon the order of adjudication being made the property of the bankrupt shall vest in him. On the appointment of a trustee by the creditors the property shall forthwith pass to and vest in the trustee so appointed.

The expression "trustee," when used in this Act, shall include the person for the time being filling the office of trustee, whether he be the registrar or not; but when the registrar holds the office of trustee he shall, in the administration of the property of the bankrupt, apply to the Court for directions as to the mode of administering such property, and shall not take possession thereof unless directed by the Court.

Evidence of appointment of trustee.

17. The appointment of a trustee by the creditors shall be reported to the Court, and the Court, upon being satisfied that the requisite security has been entered into by him, shall give a certificate declaring him to be trustee of the bankruptcy named in the certificate, and such certificate shall be conclusive evidence of the appointment of the trustee, and such appointment shall date from the date of the certificate. When the registrar holds the office of trustee, or when the trustee is changed, a like certificate of the Court may be made declaring the person therein named to be trustee, and such certificate shall be conclusive evidence of the person therein named being trustee.

General Provisions affecting Administration of Property. A.D. 1869

Conduct of bankrupt.

18. The bankrupt shall, to the utmost of his power, aid in the realization of his property, and the distribution of the proceeds amongst his creditors. He shall give such inventory of his property, such list of his creditors and of their debts, submit to such examination in respect of his property or affairs or his creditors, attend such meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by rules of Court, or be directed by the Court by any special order or orders made in reference to any particular bankruptcy, or made on the occasion of any special application by the trustee or any creditor.

If the bankrupt fail to perform the duties imposed on him by this section, or if he fail to deliver up possession to the trustee of any part of his real or personal property, which vests in the trustee under this Act, and which may for the time being be in the possession or under the control of such bankrupt, he shall be guilty of a contempt of Court, and be punished accordingly.

Conduct of trustee, and appeal to Court against trustee.

19. The trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by the creditors at any general meeting, or by the committee of inspection, and any directions given by the creditors at any general meeting shall be deemed to override any directions given by the committee of inspection.

Subject to the provisions of this Act, and to such directions as aforesaid, the trustee shall exercise his own discretion in the management of the estate, and its distribution amongst the creditors. The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes; he may also apply to the Court, in manner prescribed by rules of Court, for directions in relation to any particular matter arising under the bankruptcy.

The bankrupt, or any creditor, debtor, or other person aggrieved by any act of the trustee, may apply to the Court, and the Court may confirm, reverse, or modify the act complained of, and make such order on the premises as it thinks just. The Court may from time to time, during the continuance of a bankruptcy, summon general meetings of the creditors for the purpose of ascertaining

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their wishes, and may, if the Court thinks fit, direct the registrar to preside at such meetings.

The trustee shall, in relation to and for the purpose of acquiring and retaining possession of the property of the bankrupt, be in the same possession in all respects as if the Court were the Court of Chancery, and he were a receiver of such property appointed by the Court, and the Court may, on his application, enforce such acquisition or retention of property accordingly.

Regulations as to general meetings of creditors subsequent to first meeting.

20. The provisions of this Act with respect to the first general meeting of creditors shall apply to any subsequent general meeting of creditors, with this exception, that subsequent meetings of creditors may be summoned by the trustee, or by a member of the committee of inspection, and that such meetings may, unless otherwise directed by the Court in the case of meetings summoned by the Court, be presided over by any person chosen by the creditors assembled at such meeting, and that any creditor the value of whose debt has been ascertained subsequently to such first meeting shall be allowed to be present and to vote thereat.

Dealings with Bankrupt's Property.

Possession of property by trustee.

21. Where any portion of the property of the bankrupt consists of stock, shares, shares in ships, or any other property transferable in the books of any company, office, or person, the right to transfer such property shall be absolutely vested in the trustee. Where any portion of such estate consists of copyhold or customary property, or any like property passing by surrender and admittance or in any similar manner, the trustee may deal with such property in the same manner as if such property had been duly surrendered or otherwise conveyed to such uses as the trustee may appoint; and any appointee of the trustee shall be admitted or otherwise invested with the property accordingly.

Where any portion of the property of the bankrupt consists of things in action, the trustee may institute any action, suit, or other proceeding for the recovery of such things either in his own name or in the name of the bankrupt; and if he institute the same in his own name, such things shall, for the purpose of such action, suit, or other proceeding, be deemed to be assignable in law, and to have been duly assigned to the trustee.

The trustee shall, as soon as may be after his appointment, take possession of the deeds, books, and documents of the bankrupt, and all other property capable of manual delivery or of actual possession.

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Disclaimer as to onerous property.

22. Where any property vested in the trustee by virtue of this Act consists of leaseholds burdened with onerous covenants, of unmarketable shares in companies, of unprofitable contracts, or of any other property that is unsaleable by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee may, by writing under his hand, disclaim such property, and upon the execution of such disclaimer the property disclaimed shall, if the same is a contract, be deemed to be determined, but if any other species of property it shall, unless the Court otherwise orders, revert to the person or company entitled to require the performance of such onerous acts, or the payment of such sum of money for all the estate and interest of the bankrupt therein, but any person injured by the operation of this section shall be deemed a creditor of the bankrupt to the extent of such injury, and may accordingly prove a debt against his property.

Limitation of time for disclaimer.

23. The trustee shall not be entitled to disclaim any property in pursuance of this Act in cases where an application has been made to him by any person interested in such property, and the trustee has for a period of not less than fourteen days after the receipt of such application declined or neglected to give notice whether he disclaims the same or not.

Power of trustee to deal with property.

24. Subject to the provisions of this Act, the trustee shall have power to do the following things:

(1.) To carry on the business of the bankrupt so far as may be necessary for the beneficial winding up of the same:

(2.) To bring or defend any action, suit, or other legal proceeding relating to the property of the bankrupt:

(3.) To bar any estate tail of which the bankrupt is beneficially seised to the same extent as the bankrupt might have barred the same; and for that purpose sections fifty-six to seventy-three (both inclusive) of the Act of the session of the third and fourth years of the reign of King William the Fourth (chapter seventy-four), "for the abolition of "fines and recoveries, and for the substitution of more "simple modes of assurance," shall extend and apply to proceedings in bankruptcy under this Act as if those sections were here re-enacted and made applicable in terms to such proceedings:

(4.) To execute any powers the right to execute which is vested in him under this Act, and all powers of attorney, deeds, and other instruments expedient or necessary for the purpose of carrying into effect the provisions of this Act:

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(5.) To sell all the real and personal property and things in action by this Act vested in him by public auction or private contract, with power, if he thinks fit, to transfer the whole thereof to any person or company, or to sell the same in parcels:

(6.) To give receipts for any money received by him effectually discharging the person paying such monies from all responsibility in respect of the application thereof:

(7.) To prove, rank, claim, and draw a dividend in the matter of the bankruptcy or sequestration of any debtor of the bankrupt:

(8.) With the consent of the committee of inspection, to refer any dispute to arbitration.

To allow bankrupt to manage property.

25. The trustee may, with the approbation of the committee of inspection, appoint the bankrupt himself to superintend the management of the estate, or to carry on the trade of the bankrupt (if any) for the benefit of the creditors, and in any other respect to aid in administering the estate in such manner and on such terms as the creditors direct.

Power of trustee to compromise, &c.

26. The trustee may, with the sanction of a special resolution of the creditors assembled at any meeting of which notice has been given specifying the object of such meeting, do all or any of the following things:

(1.) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts:

(2.) Sell by auction or private contract all or any book debts due or growing due to the bankrupt, and the goodwill of his business:

(3.) Compromise all debts, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any debtor or person apprehending liability to the bankrupt, upon the receipt of such sums, payable at such times, and generally upon such terms as may be agreed upon:

(4.) Make such compromise or other arrangement as the trustee may think expedient with creditors, or persons claiming to be creditors in respect of any debts provable under the bankruptcy:

(5.) To divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot advantageously be realized by sale.

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Trustee to pay moneys into bank.

27. The trustee shall pay all sums from time to time received by him into the Bank of England, or some other prescribed bank; and if he at any time keep in his hands any sum exceeding fifty pounds for more than ten days he shall be subject to the following liabilities; that is to say,

(1.) He shall pay interest at the rate of twenty pounds per centum per annum on the excess of such sum above fifty pounds as he may retain in his hands:

(2.) Unless he can prove to the satisfaction of the Court that his reason for retaining the money was innocent, he shall, on the application of any creditor, be dismissed from his office by the Court, and shall have no claim for remuneration, and be liable to any expenses to which the creditors may be put by or in consequence of his dismissal.

Payment of Debts and Distribution of Assets.

Description of debts provable in bankruptcy.

28. All debts to which the bankrupt is liable at the date of the order of adjudication, whether present or future, certain or contingent, with the exception of debts involving demands in the nature of unliquidated damages, shall be provable in the prescribed manner by the creditors under the bankruptcy, a just estimate being made according to the rules of Court for the time being in force, so far as the same may be applicable, of the value of all such debts as may be subject to any contingency, or, for some other reason, do not bear a certain value.

Special proceedings in case of certain unliquidated damages.

29. If the bankrupt is at the date of the order of adjudication liable, by reason of any contract or promise, to a demand in the nature of unliquidated damages, the Court may, on the application of any person interested in such demand, direct such damages to be assessed, with the consent of all the parties interested, before the Court itself, without the intervention of a jury, or, if such parties do not consent, by a jury either before itself or any other competent court, and may give all necessary directions for such purpose, and the amount of damages when assessed shall be provable as a debt under the bankruptcy.

Preferential debts.

30. The debts herein-after mentioned shall be paid in priority to all other debts. Between themselves such debts shall rank equally, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves; that is to say,

(1.) All parochial or other local rates due from him at the time of adjudication, and having become due and payable

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within six months next before such time, all assessed taxes, land tax, and property or income tax assessed on him up to the fifth day of April next before the time of adjudication, and not exceeding in the whole one year's assessment; with this proviso, that the bankrupt shall not be liable to be assessed to taxes after such fifth day of April in respect of any article kept and used for the purposes of trade at or before the time of adjudication, and sold under the bankruptcy, and not kept or used by the bankrupt after such fifth day of April:

(2.) All wages or salary due to any clerk or servant in the employment of the bankrupt at the time of adjudication, not exceeding three months wages or salary, and not exceeding fifty pounds; all wages due to any labourer or workman in the employment of the bankrupt at the time of adjudication, and not exceeding one month's wages:

Save as aforesaid, all debts provable under the bankruptcy shall be paid pari passu.

Preferential claim in case of apprenticeship.

31. Where at the time of the presentation of the petition for adjudication any person is apprenticed or is an articled clerk to the bankrupt, the adjudication shall be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of such apprentice or clerk to the bankrupt as a fee, the Court, on proof thereof, may, on the application of the apprentice or clerk, or of some person on his behalf, if it thinks fit, order such sum as the Court thinks reasonable to be paid by the trustee out of the bankrupt's property to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

Where it appears expedient to a trustee he may, on the application of any apprentice or articled clerk to the bankrupt, or any person acting on behalf of such apprentice or articled clerk, instead of acting under the preceding provisions of this section, transfer the indenture of apprenticeship or articles of agreement to some other person.

Power for landlord to distrain for rent.

32. The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt, with this

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limitation, that if such distress for rent be levied after the commencement of the bankruptcy it shall be available only for one year's rent accrued due prior to the commencement of the bankruptcy, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the overplus due for which the distress may not have been available.

Allowance to bankrupt for maintenance or service.

33. The trustee, with the consent of the creditors, testified by a resolution passed in general meeting, may from time to time, during the continuance of the bankruptcy, make an allowance to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate.

Mutual credits.

34. Where there has been a mutual credit between the bankrupt and any creditor, any debt due previously to the commencement of the bankruptcy from the bankrupt to such creditor may be set off against any debt due to the bankrupt from such creditor, and the balance shall according to the circumstances be admitted to proof against the estate of the bankrupt, and be payable by the creditors to the estate of the bankrupt.

Provision as to secured creditor.

35. A creditor holding a specific security on the property of the bankrupt, or on any part thereof, may, on giving up his security, prove for his whole debt.

He shall also be entitled to a dividend in respect of the balance due to him after realizing or giving credit for the value of his security, provided that such security be realized or credit given for the same within the prescribed time.

A creditor holding security and not complying with the foregoing conditions shall be excluded from all share in any dividend; moreover it shall be lawful for the Court, on the application of the trustee, to cause such security to be realized, and after satisfying out of the proceeds, if sufficient, the debt due to the creditor, to pay the overplus, if any, to the trustee.

Dividends.

Distribution of dividends.

36. The trustee shall from time to time, when he has realized a sufficient sum of money from the property of the bankrupt, declare a dividend amongst the creditors who have proved their debts, and shall distribute the same accordingly; and in the event of his not declaring a dividend for the space of six months, he shall summon a meeting of the creditors, and explain to them his reasons for not declaring the same.

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Provision for creditors residing at a distance, &c.

37. In the calculation of a dividend it shall be obligatory on the trustee to make provision for debts appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting, that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts, the subject of claims not yet determined.

Right of creditor who has not proved debt before declaration of a dividend.

38. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any monies for the time being in the hand of the trustee any dividend or dividends he may have lost before such monies are made applicable to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

39. When the trustee has converted into money all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be collected without needlessly protracting the bankruptcy, he shall declare a final dividend, and give notice of the time at which it will be distributed.

Bankrupt entitled to surplus.

40. The bankrupt shall be entitled to any surplus remaining after payment of all his creditors in full, and payment of the costs, charges, and expenses of the bankruptcy.

No action for dividend.

41. An action for a dividend shall not lie against the trustee, but if the trustee refuses to pay any dividend the Court may, if it thinks fit, order payment thereof, with interest payable by the trustee personally for the time that it is withheld, and with the costs of the application.

Discharge of Bankrupt.

Conclusion of bankruptcy.

42. Where the whole property of the bankrupt has been distributed amongst his creditors, or so much thereof as can, in the joint opinion of the trustee and committee of inspection, be collected without needlessly protracting the bankruptcy, the trustee shall make a report to the Court in reference to such distribution of the property, and the Court, if satisfied that the whole of the property of the bankrupt has been distributed amongst his creditors, or so much thereof as can be collected without needlessly protracting the bankruptcy, shall make an order that the bankruptcy has closed, and the bankrupt shall, on application to the Court, be entitled to an order of discharge, provided—

(1.) That he has given up all his property to the creditors, with the exception of such portion thereof as he is entitled to retain under this Act; and,

(2.) That a dividend of not less than ten shillings in the pound has been paid out of his estate, or might have been paid except through the negligence or fraud of the trustee, or that a special resolution of his creditors in general meeting has been passed to the effect that his bankruptcy has in their opinion arisen from unavoidable misfortune, and they desire that a discharge should be accorded to him. A.D. 1869.

Effect of order of discharge.

43. An order of discharge shall release the bankrupt from all debts provable under the bankruptcy, with the exception of—

(1.) Any debt due to the Crown:

(2.) Any debt with which the bankrupt stands charged at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence:

And he shall not be discharged from such excepted debts unless the Commissioners of the Treasury certify in writing their consent to his being discharged therefrom. The order of discharge shall be sufficient evidence of the bankruptcy, and of the validity of the proceedings thereon, and in any proceedings that may be instituted against such bankrupt in respect of any debt from which he is released by such order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

Exception of joint debtors.

44. The order of discharge shall not release any person who, at the time of adjudication, was a partner with the bankrupt, or was jointly bound or had made any joint contract with him.

Possible allowance to bankrupt after discharge.

45. The creditors may, if they think fit, by special resolution, direct the trustee to set apart out of the produce of his estate a certain portion for the maintenance of the bankrupt after his discharge, instead of distributing the whole amongst his creditors.

Release of Trustee.

Release of trustee.

46. When the bankruptcy is closed the trustee shall call a meeting of the creditors to consider an application to be made to the Court for his release. At the meeting the trustee shall lay before the assembled creditors an account showing the manner in which the bankruptcy has been conducted, with a list of the unclaimed dividends, if any, and of the property, if any, outstanding, and shall inform the meeting that he proposes to apply to the Court for a release.

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The creditors assembled at the meeting may express their opinion as to the conduct of the trustee, and they, or any of them, may appear before the Court and oppose the release of the trustee.

The Court, after hearing what, if anything, can be urged against the release of the trustee, shall grant or withhold the release accordingly, and if it withhold the release shall make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty, and shall suspend his release until such charging order has been complied with, and the Court thinks just to grant the release of the trustee.

Duty of trustee as to unclaimed dividends and outstanding property.

47. Unclaimed dividends, and any other monies arising from the property of the bankrupt, remaining under the control of the trustee at the end of the bankruptcy of any bankrupt shall be accounted and paid over to such account as may be directed by the rules of Court; and any parties entitled thereto may claim the same in manner directed by such rules. The trustee shall also deliver a list of any outstanding property of the bankrupt to the prescribed persons, and the same shall, when practicable, be got in and applied for the benefit of the creditors in manner prescribed by the rules of Court.

Effect of release of trustee.

48. The order of the Court releasing the trustee of a bankruptcy shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee of such bankrupt; but such order may be revoked by the Court on proof that it was obtained by fraud.

Status of undischarged Bankrupt.

Status of undischarged bankrupt.

49. A person who has been made bankrupt and has not obtained his discharge shall, from and after the close of his bankruptcy, be liable to all debts subsisting against him in the same manner as if no bankruptcy had taken place, with the following exceptions:

(1.) Any sum paid to any creditor under the bankruptcy shall be deemed to have been paid on behalf of the bankrupt, and shall diminish proportionally the amount of debt due to such creditor:

(2.) Any creditor of the debtor so made bankrupt may grant to such debtor a release of any portion of a debt proveable under the bankruptcy, either gratuitously or upon such terms as may be agreed upon between them, and the debtor to whom such release is granted shall be a creditor on his own estate in respect of the debt so released, in the same manner as if that estate belonged to another person, and the debt released were a debt incurred by the owner

of such estates, which debt had been duly assigned for a valuable consideration to the person to whom the release is granted, subject to this qualification, that a debtor to whom a debt has been released in manner aforesaid shall not, in the event of a subsequent bankruptcy, be entitled to vote in respect of such debt:

(3.) No portion of a debt proveable under the bankruptcy shall be enforced against the person so made bankrupt until the expiration of five years from the close of the bankruptcy; and during that time, if he pay to his creditors such additional sum as will, with the dividend paid out of his property during the bankruptcy, make up ten shillings in the pound, he shall be discharged in the same manner as if a dividend of ten shillings in the pound had originally been paid out of his property; but if he fail to pay such additional sum then at the expiration of such period of five years the balance remaining due of any such debt may be enforced against him in the same manner as if no such bankruptcy had taken place.

Audit.

Audit by comptroller in Bankruptcy.

50. The accounts of the trustee shall be audited by an officer to be called the Comptroller in Bankruptcy.

Appointment of comptroller.

51. The first and any subsequent comptroller shall be appointed by the Lord Chancellor, and hold office during his pleasure. The comptroller shall be provided with such office in London, and with such assistance by way of clerks, messengers, and other officers, as may be directed by the Lord Chancellor, with the approval of the Treasury. The clerks, messengers, and other officers in the office of the comptroller shall be appointed and dismissible by the comptroller, and there shall be paid to them respectively such salaries as may be approved by the Treasury.

The comptroller shall be deemed to be a permanent officer of the Civil Service within the meaning of the Superannuation Act, but the clerks, messengers, and other officers in his service shall, although paid out of public moneys, be deemed to be the servants of the comptroller, and not permanent civil servants of Her Majesty.

Subject to the provisions of this Act, the comptroller shall perform such duties as may be assigned to him and conform to such directions as may be given to him by the Lord Chancellor.

Return of accounts to comptroller.

52. Every trustee of a bankrupt shall from time to time, as may be prescribed, and not less than once during the bankruptcy,

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transmit to the comptroller a statement showing the proceedings in such bankruptcy up to the date of the statement containing the prescribed particulars, and made out in the prescribed form; and any trustee failing to transmit accounts in compliance with this section shall be deemed guilty of a contempt of court, and be punishable accordingly.

Duty of comptroller.

53. The comptroller shall examine the statement transmitted to him, and shall call the trustee to account for any misfeasance, neglect, or omission which may appear on such statement, and may require the trustee to make good any loss the estate of the bankrupt may have sustained by such misfeasance, neglect, or omission. If the trustee fail to comply with such requisition of the comptroller, the comptroller may report the same to the Court; and the Court, after hearing the explanation, if any, of the trustee, shall make such order in the premises as it thinks just.

Powers of comptroller.

54. The comptroller may at any time require any trustee to answer any inquiry made by him in relation to any bankruptcy in which such trustee is engaged, and may, if he think fit, examine on oath such trustee or any other person concerning such bankruptcy, and any trustee or other person, when examined on oath by the comptroller, shall, if he wilfully make any false statement, be guilty of perjury.

Constitution and Powers of Court.

Description of Court.

Court to consist of London Court and County Courts.

55. Subject to the provisions of this Act with respect to the existing Courts having jurisdiction in bankruptcy, and their officers, the following provisions shall take effect from and after the commencement of this Act; that is to say,

If the person sought to be adjudged a bankrupt reside or carry on business within the London Bankruptcy District as herein-after defined, or be not resident in England, then "the Court" shall mean, for the purposes of this Act, the Court of Bankruptcy in London as constituted by this Act, and herein-after referred to as the London Bankruptcy Court:

If the person sought to be adjudged a bankrupt, being resident in England, do not reside or carry on business within the London Bankruptcy District, then "the Court" shall, subject to the provisions herein-after contained for removing the proceedings to the London Bankruptcy Court, mean the county court of the district in which such person resides or carries on business, herein-after referred to as the local Bankruptcy Court.

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Definition of the London Bankruptcy District.

56. The London Bankruptcy District shall, for the purposes of this Act, comprise the following places; that is to say, the city of London and the liberties thereof, and all such parts of the metropolis and other places as are situated within the district of a metropolitan county court.

Constitution of the London Bankruptcy Court.

57. The London Bankruptcy Court shall from and after the commencement of this Act consist of a judge, to be called the Chief Judge in Bankruptcy, and of such registrars not exceeding in number, clerks, ushers, and other subordinate officers, as may be determined by the Chief Judge with the sanction of the Treasury.

The office of Chief Judge in Bankruptcy shall be filled by such one of the puisne judges of Her Majesty's Superior Courts of Common Law at Westminster as may, with his assent, be assigned to hold such office by the Lord Chancellor; the judge so assigned shall hold the office of Chief Judge in Bankruptcy in addition to the office of judge in the court to which he belongs, but he shall not, during such time as he acts as Chief Judge in Bankruptcy, be required to perform any of the duties of judge in the court to which he belongs.

Power of the Crown to appoint a new common-law judge if required.

58. Her Majesty may, if an additional judge is required, appoint an additional puisne judge to any one of the Courts of Queen's Bench, the Common Pleas, and the Exchequer; the judge so appointed shall, as to rank, *salary*, *pension*, attendant officers, jurisdiction, and all other privileges and duties of a judge, stand in the same position as the other puisne judges of the Court to which he is attached. Any puisne judge appointed to any of the said Courts in pursuance of or after the passing of this Act shall, when required by the Lord Chancellor, perform the duties of Chief Judge in Bankruptcy.

Appointment of registrars and other officers.

59. Subject as aforesaid, the registrars, clerks, ushers, and other subordinate officers shall be appointed by the Chief Judge for the time being, and may be removed by him and others appointed in their stead if the judge is of opinion that they are negligent, unskilful, or untrustworthy in their performance of their duties, or ought in his opinion to be removed for any other just cause.

Salaries of officers.

60. *Subject as aforesaid, there shall be paid, out of moneys provided by Parliament, to the registrars, clerks, ushers, and other subordinate officers such salaries as the Chief Judge with the sanction of the Treasury may determine.*

Pensions to officers.

61. *Subject as aforesaid, the Lord Chancellor may order to be paid to any of the said registrars, clerks, ushers, or other subor-*

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dinate officers who is disabled by permanent infirmity from the performance of the duties of his office, or has served as an officer of the said London Bankruptcy Court for twenty years and is desirous of resigning, such superannuation allowance, to be paid out of moneys to be provided by Parliament, as the Treasury may award, having regard to any general order for the time being in force regulating the pensions, compensations, and allowances to be made to persons in respect of their having held civil offices in Her Majesty's service.

Powers of registrar.

62. All acts and things by this Act authorized or required to be done by or to the registrar may be done within the district of each court having jurisdiction in bankruptcy by or to the registrar of that court, or by or to such other person as may be appointed for that purpose by such court.

Duties of subordinate officers of court.

63. Subject as aforesaid, the registrars, clerks, ushers, and other subordinate officers shall perform such duties as may from time to time be assigned to them by the Chief Judge with the assent of the Lord Chancellor.

Jurisdiction of the London Court of Bankruptcy.

64. The London Court of Bankruptcy shall continue to be a court of law and of equity and a principal court of record, and the Chief Judge in Bankruptcy shall have all the powers, jurisdiction, and privileges possessed by any judge of Her Majesty's Superior Courts of Common Law at Westminster, or by any judge of Her Majesty's High Court of Chancery, and the orders of such judge may be enforced accordingly. The Chief Judge in Bankruptcy may sit in chambers, and when in chambers shall have the same jurisdiction and exercise the same powers as if sitting in open court.

Jurisdiction of county court judges.

65. Every judge of a local Court of Bankruptcy shall, for the purposes of this Act, in addition to his ordinary powers as a county court judge, have all the powers and jurisdiction of a judge of one of Her Majesty's High Court of Chancery, and the orders of such judge may be enforced accordingly.

Powers of Court to delegate authority to registrar.

66. The Chief Judge in Bankruptcy and every judge of a local Court of Bankruptcy may delegate to the registrar or to any other officer of his court such of the powers vested in him by this Act as it may be expedient for the judge to delegate to him, having regard to rules of Court and to any restrictions that may be imposed in respect of such delegation by the Lord Chancellor.

Appeal from Courts.

67. Every Court having jurisdiction in bankruptcy under this Act may review, rescind, or vary any order made by it in pursuance of

this Act. Any person aggrieved by any order of a local Bankruptcy Court in respect of a matter of fact or of law made in pursuance of this Act may appeal to the Chief Judge in Bankruptcy, and it shall be lawful to such judge to alter, reverse, or confirm such order as he thinks just. Any order made by the Chief Judge in Bankruptcy, whether in respect of a matter brought before him on appeal or not, shall, if the question be one of fact, be conclusive, but if the question be one of law be subject to reversal, confirmation, or modification by the Court to which he is attached as a common law judge, and also, with the leave of the judge, by the House of Lords, but no appeal shall be entertained under this Act except in conformity to such rules of court as may for the time being be in force in relation to such appeal.

Enforcement of warrant and orders of Courts.

68. Subject to the provisions of this Act, every Court having jurisdiction in bankruptcy under this Act shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, arising in any case of bankruptcy coming within the cognizance of such Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case; and no such Court as aforesaid shall be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act; and if in any proceeding in bankruptcy there arises any question of fact which the parties desire to be tried before a jury instead of by the Court itself, or which the Court thinks ought to be tried by a jury, the Court may direct such trial to be had, and such trial may be had accordingly, in the London Court of Bankruptcy, in the same manner as if it were the trial of an issue in one of the superior Courts of Common Law, and in the County Court in the manner in which jury trials in ordinary cases are by law held in such Court.

Orders and Warrants of Court.

General power of Bankruptcy Courts.

69. Any order made by a Court having jurisdiction in bankruptcy in England under this Act shall be enforced in Scotland and Ireland in the Courts having jurisdiction in bankruptcy in such countries respectively, in the same manner in all respects as if such order had been made by the Courts which are hereby required to enforce the same; and in like manner any order made by the Court in Scotland having jurisdiction in bankruptcy shall be enforced in England and Ireland, and any order made by the Court having jurisdiction in bankruptcy in Ireland shall be enforced in England and Scotland by the Courts respectively having jurisdiction in bank-

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ruptcy in the division of the United Kingdom where the orders made require to be enforced, and in the same manner in all respects as if such order had been made by the Court required to enforce the same in a case of bankruptcy within its own jurisdiction.

Courts in England to be auxiliary to other Courts, &c.

70. Any Court having jurisdiction in bankruptcy under this Act shall be auxiliary for proof of debts, examination of persons and witnesses on oath, and other purposes, to Courts and officers having jurisdiction in bankruptcy or insolvency in Scotland or Ireland, or in any other part of the British dominions, and to any British Court elsewhere having jurisdiction in bankruptcy or insolvency; and those Courts and officers shall severally in like manner be auxiliary to the Courts having jurisdiction in bankruptcy under this Act.

Examination in Scotland or Ireland.

71. Any Court having jurisdiction in bankruptcy in England under this Act may, if it thinks fit, order that a person named in the order being in Scotland or in Ireland shall be examined there.

Warrants of Bankruptcy Courts.

72. Any warrant of a Court having jurisdiction in bankruptcy in England under this Act may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in Her Majesty's dominions, in the same manner and subject to the same privileges in and subject to which a warrant issued by any justice of the peace against a person for an indictable offence against the laws of England, may be executed in such countries respectively in pursuance of the Acts of Parliament in that behalf; and any search warrant issued by a Court having jurisdiction in bankruptcy under this Act for the discovery of any property of a bankrupt may be executed in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law.

Commitment to prison.

73. Where any Court having jurisdiction in bankruptcy under this Act commits any person to prison the commitment may be to such convenient prison as the Court thinks expedient, and if the gaoler of any prison refuses to receive any prisoner so committed he shall be liable for every such refusal to a penalty not exceeding one hundred pounds.

General Rules.

General rules to be made by Court.

74. The Lord Chancellor, with the advice of the chief judge in bankruptcy, may from time to time make, and may from time to time revoke and alter, general rules, in this Act described as rules of Court, for the effectual execution of this Act, and of the objects thereof, and the regulation of the practice and procedure of bankruptcy petitions and the proceedings thereon.

Any general rules made as aforesaid may prescribe regulations

as to service of bankruptcy petitions; as to the valuing of any debts provable in a bankruptcy; as to the imposition of any fees on bankruptcy proceedings by stamps or otherwise; as to the giving or withholding interest or discount on or in respect of debts or dividends; as to the funds out of which costs are to be paid, and the amount and taxation thereof; as to the remuneration by percentage or otherwise of the trustee, and the security to be given by him; and as to any other matter or thing, whether similar or not to those above enumerated, in respect to which it may be expedient to make rules for carrying into effect the objects of this Act; and any rules so made shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if they were enacted in the body of this Act.

Any rules made in pursuance of the section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting; and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament.

Until rules have been made in pursuance of this Act, and so far as such rules do not extend, the principles, practice, and rules on which Courts having jurisdiction in bankruptcy have heretofore acted in dealing with bankruptcy proceedings shall be observed by any Court having jurisdiction in bankruptcy cases under this Act.

Liquidation by Arrangement.

Regulations as to liquidation by arrangement.

75. The following regulations shall be made with respect to the liquidation by arrangement of the affairs of the debtor:

(1.) The affairs of a debtor may be liquidated by arrangement, and his property distributed amongst his creditors without an adjudication in bankruptcy, on the prescribed proof being made to the registrar that such liquidation has been assented to by a majority in number and five sixths in value of all his creditors, and that a trustee has been appointed with or without a committee of inspection:

(2.) The assent of the creditors may be given either by a vote at a general meeting, or in writing, or partly in one way and partly in the other:

(3.) The creditors entitled to give such assent shall be such creditors only as would be qualified to vote under the Act at a first general meeting of creditors if the debtor were adjudged a bankrupt:

(4.) Any property of a debtor which would be divisible among his creditors if he were made bankrupt shall be divisible among them under a liquidation by arrangement:

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(5.) The certificate of the registrar in respect of the appointment of any trustee in the case of a liquidation by arrangement shall be of the same effect as a certificate of the Court to the like effect in the case of a bankruptcy, and the property of the debtor shall, from and after the date of such tificate, vest in the trustee:

(6.) The date of the appointment of the trustee by the creditors shall be deemed to be the commencement of the liquidation:

(7.) Subject as in this Act mentioned, a liquidation by arrangement of a debtor's affairs shall be conducted in all respects as if such debtor had been adjudicated a bankrupt, and a trustee had been appointed by the first meeting of creditors; and all the provisions of this Act shall apply accordingly, substituting for the word "bankrupt" the expression "debtor whose affairs are under liquidation," and for the word "bankruptcy" the expression "liquidation by "arrangement:"

(8.) Where no committee of inspection is appointed the trustee may act on his own discretion without any reference to such committee:

(9.) The trustee shall not, in a liquidation by arrangement, have power to disclaim any property of the debtor:

(10.) The creditors in general meeting may prescribe the bank into which the trustee is to pay any monies received by him, and the sum which he may retain in his hands:

(11.) The Court shall not, except in case of fraud or misconduct, interfere with any resolution of the creditors in general meeting, or with the discretion of the trustee as duly exercised in pursuance of this Act:

(12.) The provisions of this Act with respect to the discharge of a bankrupt, to the release of the trustee, and to the audit of accounts shall not apply in the case of a debtor whose affairs are under liquidation by arrangement; but the discharge of the debtor and the release of the trustee may be granted by a special resolution of the creditors in general meeting, and the accounts audited in pursuance of such resolution, at such time and in such manner and upon such terms and conditions as the creditors think fit:

(13.) The trustee shall report to the registrar the discharge of the debtor, and a certificate of such discharge given by the registrar shall have the same effect as an order of discharge given to a bankrupt under this Act:

(14.) Rules of court may be made in relation to proceedings on the occasion of liquidation by arrangement in the same

manner and to the same extent and of the same authority as in respect of proceediugs in bankruptcy:

(15.) If it appear to the Court on satisfactory evidence that the liquidation by arrangement cannot, in consequence of legal difficulties, or of there being no trustee for the time being, or of any other sufficient reason, proceed without injustice or undue delay to the creditors, the Court may adjudge the debtor a bankrupt, and proceedings may be had accordingly.

Supplemental Provisions.

As to Proceedings in Bankruptcy.

Supplemental regulations as to proceedings in bankruptcy.

76. The following regulations shall be made with respect to proceedings in bankruptcy; namely:

(1.) Where two or more bankruptcy petitions are presented the Court may consolidate the proceedings, or any of them, upon such terms as the Court thinks fit:

(2.) Where proceedings against the same debtor are instituted in more Courts than one the London Court of Bankruptcy may, on the application of any creditor, direct the transfer of such proceedings to the London Court of Bankruptcy, or to any local Bankruptcy Court in which any such proceedings may have been instituted:

(3.) Where the petitioner does not proceed with due diligence on his petition the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of a petitioning creditor:

(4.) Where the creditors resolve by a special resolution that it will be more convenient that the proceedings in any local Bankruptcy Court should be transferred to the London Court or to some other local Court, or where the judge of a local Court certifies that in his opinion the bankruptcy would be more advantageously conducted in the London Court or in some other local Court, the petition shall be transferred to and all subsequent proceedings thereon had in the London Court or such other local Court:

(5.) Subject to the provisions of this Act, every Court having original jurisdiction in bankruptcy shall be deemed to be the same Court, and to have jurisdiction throughout England; and cases may be transferred from one Court to another in such manner as may be prescribed by the rules of Court:

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(6.) When a debtor who has been adjudicated a bankrupt dies, the Court may, if it think fit, order that the proceedings in the matter be continued as if he were alive:

(7.) If it appear to the Court at any time during the continuance of the bankruptcy of a debtor that it is probable that the property of such debtor will not produce a sum exceeding fifty pounds after deducting the costs of realizing such property, the Court shall make an order stating such to be the case, and annulling the order of adjudication and all proceedings that have taken place in the course of the bankruptcy; and such order and proceedings shall be null and void accordingly, without prejudice to any acts which may have been duly done or payments duly made in the course of such bankruptcy:

(8.) The Court may, at any time, on proof to its satisfaction that proceedings in bankruptcy ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.

Consequences of annulling of adjudication.

77. Whenever any adjudication in bankruptcy is annulled all sales and dispositions of property and payments duly made, and all acts theretofore done, by the trustee or any person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged a bankrupt shall in such case revert to him upon such terms and subject to such conditions, if any, as the Court may declare by order.

Formal defects not to invalidate proceedings.

78. No proceeding on the occasion of a bankruptcy or of a liquidation by arrangement under this Act shall be invalidated by any formal defect in such proceeding, or by any irregularity therein, unless the Court before whom such proceeding is brought is of opinion that substantial injustice has been caused by such defect or irregularity, and that such injustice cannot be remedied by any order of such Court.

As to Trustees and Committee of Inspection.

Regulations as to trustees, &c.

79. The following regulations shall be made with respect to the trustee and committee of inspection:

(1.) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and where more than one are appointed they shall declare whether any act required or authorized to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are hereby included under the term "trustee," and shall be joint tenants of the property of the bankrupt. The creditors may also appoint persons to act as trustees

in succession in the event of one or more of the persons first named declining to accept the office of trustee :

(2.) If any vacancy occur in the office of trustee by death, resignation, or otherwise, the creditors in general meeting shall fill up such vacancy, and a general meeting for the purpose of filling up such vacancy may be convened by the continuing trustee, if there be more than one, or by the registrar on the requisition of any creditor :

(3.) If, through any cause whatever, there is no trustee acting during the continuance of a bankruptcy, the registrar, or some other person appointed by the Court, shall act as such trustee :

(4.) The Court may, upon cause shown, remove any trustee, and appoint another person to fill his office :

(5.) If a trustee be adjudged bankrupt, he shall cease to be trustee, and the registrar shall call a meeting of creditors for the appointment of another trustee in his place :

(6.) The property of the bankrupt shall pass from trustee to trustee, including under that term the registrar when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever, in the same manner as if the first trustee in a bankruptcy, inclusive as aforesaid, were a corporation sole, and the other trstees were his successors :

(7.) The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly :

(8.) Any member of the committee of inspection may resign his office by notice in writing signed by him, and delivered to the trustee :

(9.) Any member may also be removed by a special resolution at any meeting of creditors of which seven days previous notice has been given, stating the object of the meeting :

(10.) On any vacancy occurring in the office of a member of the committee of inspection by removal, death, resignation, or otherwise, the trustee shall convene a meeting of creditors for the purpose of filling up such vacancy :

(11.) The continuing members of the committee of inspection may act, notwithstanding any vacancy in their body :

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(12.) No defect or irregularity in the election of a trustee or of a member of the committee of inspection shall vitiate any act bonâ fide done by him; and no act or proceeding of the trustee or of the creditors shall be invalid by reason of any failure of the creditors to elect all or any members of the committee of inspection:

(13.) If a member of the committee of inspection become a bankrupt his office shall thereupon become vacant.

Power of Court, on failure of creditors, to appoint trustee.

80. The registrar may adjourn the first meeting of creditors from time to time and from place to place, subject to the directions of the Court; but if, at such first meeting of creditors or at some adjournment thereof, no trustee is appointed by reason of the prescribed quorum not being present, or for any other reason whatever, the Court shall annul the adjudication, unless it deems it expedient for special reasons to carry on the bankruptcy with the aid of the registrar as trustee. Moreover, if at any time during the bankruptcy no new trustee is appointed by the creditors to fill a vacancy in that office, the Court may either carry on the bankruptcy with the aid of the registrar as trustee or annul the order of adjudication, as it thinks just.

Power of Court, on petition of creditors, to appoint a committee of inspection.

81. Where there is no committee of inspection, any act or thing or any direction or consent by this Act authorized or required to be done or given by such committee may be done or given by the Court on the application of the trustee.

As to Power over Bankrupt.

Post letters addressed to bankrupt.

82. The Court, upon the application of the trustee, may from time to time order that, for such time as the Court thinks fit, not exceeding three months from the date of the order of adjudication, post letters addressed to the bankrupt at any place or any of the places of which he is described in the bankruptcy petition, shall be re-directed, sent, or delivered by the postmaster general or the officers acting under him, to the trustee or otherwise as the Court directs, and the same shall be done accordingly.

Arrest of bankrupt under certain circumstances.

83. The Court may, by warrant addressed to any constable or person named in such warrant, cause a bankrupt to be arrested, and any books, papers, moneys, goods, and chattels in his possession to be seized, and him and them to be safely kept until such time as the Court may order, under the following circumstances:

(1.) If, after a petition of bankruptcy is filed against him, it appear to the Court that there is probable reason for believing that he is about to go abroad or to quit his place of residence with a view of avoiding service of the

petition, or of avoiding appearing to the petition, or of avoiding examination in respect of his affairs, or otherwise delaying or embarrassing the proceedings in bankruptcy:

(2.) If, after a petition in bankruptcy has been filed against him, it appear to the Court that there is probable cause for believing that he is about to remove his goods or chattels with a view of preventing or delaying such goods or chattels being taken possession of on account of his creditors under the bankruptcy, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods or chattels, or any books, documents, or writings which might be of use to his creditors in the course of his bankruptcy:

(3.) If after the service of the petition on him, or after an adjudication in bankruptcy against him, he change his place of residence for the time being, or remove any goods or chattels in his possession above the value of five pounds, without the leave of the trustee appointed to conduct bankruptcy.

As to Property devolving on Trustee.

Proceeds of sale and seizure of goods.

84. Where the goods of any trader have been taken in execution and sold, the sheriff shall retain the proceeds of such sale in his hands for a period of fourteen days, and upon notice being served on him within that period of a bankruptcy petition having been filed against such trader, shall hold the proceeds of such sale, after deducting the costs and expenses, on trust to pay the same to the trustee; but if no notice of such petition having been filed be served on him within such period of fourteen days, or if, such notice having been filed, the trader against whom the same is filed is not adjudged a bankrupt on such petition, or on any other petition of which the sheriff has notice, the sheriff may deal with the proceeds of such sale in the same manner as he would have done had no act of bankruptcy taken place.

Sequestration of ecclesiastical benefice.

85. Where a bankrupt is a beneficed clergyman, the trustee may apply for a sequestration of the profits of the benefice, and the certificate of the appointment of the trustee shall be sufficient authority for the granting of sequestration without any writ or other proceeding, and the same shall accordingly be issued as on a writ of levari facias founded on a judgment against the bankrupt, and shall have priority to any sequestration issued after the order of adjudication; but the sequestrator shall allow out of the profits of the benefice to the bankrupt, while he performs the duties of the parish or place, such an annual sum, payable quarterly, as the bishop of

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the diocese in which the benefice is situate directs; and the bishop may appoint to the bankrupt such or the like stipend as he might by law have appointed to a curate duly licensed to serve the benefice in case the bankrupt had been non-resident.

Appropriation of portion of pay of officers to creditors.

86. Where the bankrupt is or has been an officer of the army or navy, or an officer or clerk or otherwise employed or engaged in the service of the Crown, in the customs or inland revenue, or any civil office or other department, or is in the enjoyment of any pension under any department of Her Majesty's Government, the trustee during the bankruptcy, and the registrar after the close of the bankruptcy, shall receive for distribution amongst the creditors so much of the bankrupt's pay, half pay, salary, emolument, or pension as the Court, upon the application of the trustee, thinks just and reasonable, to be paid in such manner and at such times as the Court, with the consent in writing of the Secretary of State, Lords Commissioners of the Admiralty, Commissioners of Customs or Inland Revenue, or chief officer of the department under which the pay, half pay, salary, emolument, or pension is enjoyed directs.

Appropriation of portion of salary to creditors.

87. Where the bankrupt is in the receipt of a salary other than as aforesaid, the Court upon the application of the trustee shall make such order as it thinks just for the payment of such salary to the trustee during the bankruptcy, and to the registrar if necessary after the close of the bankruptcy, to be applied by him in such manner as the Court may direct.

Avoidance of voluntary settlements.

88. Any settlement of real or personal property not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, shall, if the settlor become bankrupt within two years after the date of such settlement, be void as against the trustee of the bankrupt appointed under this Act, unless the parties claiming under such settlement can prove that the settlor was at the time of making the settlement able to pay all his debts.

"Settlement" shall for the purposes of this section include any conveyance or transfer of real or personal property.

Avoidance of fraudulent preferences.

89. Every conveyance or transfer of real or personal property, or charge thereon made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own moneys in favour of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors, shall, if the person making, taking, or suffering the same become bankrupt within three months after the date of making or taking the same, be deemed

fraudulent and void as against the trustee of the bankrupt appointed under this Act; but this section shall not affect the rights of a purchaser or incumbrancer in good faith and for valuable consideration.

Payment of money by agents to trustee.

90. Any treasurer or other officer, or any banker, attorney, or agent of the bankrupt, shall pay and deliver to the trustee all moneys and securities in his possession or power, as such officer or agent, if he be not by law entitled to retain as against the bankrupt or the trustee; if he do not he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the trustee.

Protection of bonâ fide payments.

91. Where any person, having in his possession or custody any money or personal property which at the time of the deposit thereof in his possession or custody belonged to the bankrupt, pays or delivers the same to the bankrupt or to his order, such payment or delivery (even if made after the order of adjudication) shall not be impeached as against the person making the same; provided,

1. That the payment or delivery is made before notice of the order of adjudication is gazetted:
2. That the person making such payment or delivery had not at the time of making the same notice of any act of bankruptcy committed by the bankrupt and available for adjudication against him at the time of the filing of the petition.

As to Discovery of Bankrupt's Property.

Power of Court to summon persons before it suspected of having property of bankrupt.

92. The Court may, on the application of the trustee, at any time after an order of adjudication has been made against a bankrupt, summon before it the bankrupt or his wife, or any person whatever known or suspected to have in his possession any of the estate or effects belonging to the bankrupt, or supposed to be indebted to the bankrupt, or any person whom the Court may deem capable of giving information respecting the trade dealings, effects, or estate of the bankrupt, and the Court may require any such person to produce any documents in his custody or power relating to the bankrupt and his dealings; and if any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce such documents, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant addressed as aforesaid, cause such person to be apprehended and brought up for examination.

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Examination of parties by Court.

93. The Court may examine upon oath, either by word of mouth or by written interrogatories, any person so brought before them in manner aforesaid concerning the affairs, dealings, estate, or effects of the bankrupt.

Order of Court for payment of amount admitted on examination.

94. If any person on examination before the Court admit he is indebted to the bankrupt, the Court may, on the application of the trustee, order him to pay to the trustee, at such time and in such manner as to the Court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.

Seizure of property of bankrupt.

95. Any person acting under warrant of the Court may seize any property of the bankrupt vested in the trustee under this Act, and in the bankrupt's custody or possession, or in that of any other person, and with a view to such seizure may break open any house, building, or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search warrant to any constable or person appointed by the Court, who may execute the same according to the tenour thereof.

Penalty for concealing bankrupt's property.

96. If any person without reasonable excuse (proof whereof shall lie on him) conceals property of the bankrupt, and does not, within forty-two days after notice of the order of adjudication is advertized, discover the same to the trustee, he shall be liable to forfeit, for the benefit of the creditors of the bankrupt, double the value of the property concealed, and a sum not exceeding one hundred pounds.

Reward for discovery of property.

97. If any person, after the expiration of forty-two days after notice of the order of adjudication is advertized, voluntarily discovers to the Court or to the trustee property of the bankrupt not known to the trustee, he shall be entitled to receive thereout as reward one twentieth part of the amount or value thereof, and such further sum (if any) as the creditors think fit.

Joint and separate Estates.

Power to present petition against one partner.

98. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present such petition against any one or more partners of such firm without including the others.

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Power to dismiss petition against some respondents only.

99. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

Estates of partners to be vested in same trustee.

100. Where one member of a partnership has been adjudicated a bankrupt, any other petition for adjudication against a member of the same partnership shall be filed in or transferred to the Court in which the first-mentioned petition is in course of prosecution, and, unless the Court otherwise directs, the estate of such last-mentioned member shall vest in the trustee appointed in respect of the estate of the first-mentioned member of the partnership, and the Court may give such directions for amalgamating the proceedings in respect of the estates of the members of the same partnership as it thinks just.

Joint creditor may prove for purpose of voting.

101. If one or more partners of a firm be adjudged bankrupt, any creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat, but shall not receive any dividend out of the separate estate of the bankrupt until all the separate creditors have received the full amount of their respective debts.

Joint and separate dividends.

102. Where joint and separate estates are being administered, dividends of the joint and separate estates shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together; and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate estates, regard being had to the work done for and the benefit received by each estate.

Suits by trustee and bankrupt's partners.

103. Where a member of a partnership is adjudged bankrupt, the Court may authorize the trustee, with consent of the creditors, certified by a special resolution, to commence and prosecute any action or suit in the names of the trustee and of the bankrupt's partner; and any release by such partner of the debt or demand to which the action or suit relates shall be void; but notice of the application for authority to commence the action or suit shall be given to such partner, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action or suit, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

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Evidence.

Evidence of proceedings at meeting of creditors.

104. The registrar, or any other person presiding at a meeting of creditors under this Act, shall cause minutes to be kept and duly entered in a book of all resolutions and proceedings of such meeting, and any such minute as aforesaid, if purporting to be signed by the president of the meeting at which such resolutions were passed or proceedings had, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every general meeting of the creditors in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had.

Evidence of proceedings in bankruptcy.

105. Any petition or copy of a petition in bankruptcy, any order, or copy of an order made by any Court having jurisdiction in bankruptcy, any certificate or copy of a certificate made by any Court having jurisdiction in bankruptcy, any deed or copy of a deed of arrangement in bankruptcy, and any other instrument or copy of an instrument, affidavit, or document made or used in the course of any bankruptcy proceedings, may, if any such instrument as aforesaid or copy of an instrument appears to be sealed with the seal of any Court having jurisdiction, or purports to be signed by any judge having jurisdiction in bankruptcy under this Act, be receivable in evidence in all legal proceedings whatever.

Bankruptcy Courts to have seals.

106. Every Court having jurisdiction in bankruptcy under this Act shall have a seal describing such Court in such manner as may be directed by order of the Lord Chancellor, and judicial notice shall be taken of such seal, and of the signature of the judge or registrar of any such Court, in all legal proceedings.

Penalty on false statements.

107. If any person, on the occasion of a bankruptcy or liquidation by arrangement, wilfully makes, by word of mouth or in writing, any false statement which is not punishable as perjury, and the maker of such false statement gains any advantage, or any person sustains any injury thereby, the person making such false statement shall be guilty of a misdemeanor, and shall be liable to imprisonment for a period not exceeding one year, with or without hard labour.

Persons having Privilege of Parliament.

Privilege of Parliament not to prevent adjudication in bankruptcy.

108. If a person having privilege of Parliament commits an act of bankruptcy he may be dealt with under this Act in like manner as if he had not such privilege.

Vacating of seat in House of Commons.

109. If a person, being a member of the Commons House of Parliament, is adjudged bankrupt, he shall be and remain during one year from the date of the order of adjudication incapable of

sitting and voting in that House, unless within that time either the order is annulled or the creditors who prove debts under the bankruptcy are fully paid or satisfied.

Provided that such debts (if any) as are disputed by the bankrupt shall be considered, for the purpose of this section, as paid or satisfied if within the time aforesaid he enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning such debts, together with any costs to be given in such proceedings.

Certificate of bankruptcy to be given by Court to Speaker.

110. If within the time aforesaid the order of adjudication is not annulled, and the debts of the bankrupt are not fully paid or satisfied as aforesaid, then the Court shall, immediately after the expiration of that time certify the same to the Speaker of the House of Commons, and thereupon the seat of such member shall be vacant.

Speaker to issue new writ.

111. Where an election so becomes void the Speaker during a recess of the House, whether by prorogation or by adjournment, shall forthwith, after receiving such certificate, cause notice thereof to be published in the London Gazette; and after the expiration of six days after such publication shall, (unless the House has met before that day, or will meet on the day of the issue), issue his warrant to the clerk of the Crown to make out a new writ for electing another member in the room of the member who has so vacated his seat.

Provisions of 24 Geo. 3. sess. 2. c. 26. extended to case of bankruptcy.

112. The powers of the Act of the twenty-fourth year of the reign of King George the Third, chapter twenty-six, "to repeal so "much of two Acts made in the tenth and fifteenth years of the "reign of His present Majesty as authorizes the Speaker of the "House of Commons to issue his warrant to the clerk of the Crown "for making out writs for the election of members to serve in "Parliament in the manner therein mentioned; and for substitut-"ing other provisions for the like purposes," so far as such powers enable the Speaker to nominate and appoint other persons, being members of the House of Commons, to issue warrants for the making out of new writs during the vacancy of the office of Speaker, or during his absence out of the realm, shall extend to enable him to make the like nomination and appointment for issuing warrants, under the like circumstances and conditions, for the election of a member in the room of any bankrupt members whose seats become vacant under this Act.

Miscellaneous.

Expenses of registrar

113. Where a registrar under the authority of this Act attends at any place for the purpose of presiding at a meeting of creditors, or

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attending meetings, &c.

of receiving proofs, or of otherwise acting under this Act, his travelling and incidental expenses incurred in so doing, and those of any clerk or officer attending him, shall, after being settled by the Court, be paid out of the bankrupt's estate, if sufficient, *and otherwise shall be deemed part of the expenses of the Court of Bankruptcy.*

Power of assignee to sue.

114. Any person to whom anything in action belonging to the bankrupt is assigned in pursuance of this Act may bring or defend any action or suit relating to such thing in action in his own name, or in the name of the bankrupt.

Exemption of deeds, &c. from stamp duty.

115. Every deed, conveyance, assignment, surrender, admission, or other assurance relating solely to freehold, leasehold, copyhold, or customary property, or to any mortgage, charge, or other incumbrance on, or any estate, right, or interest in any real or personal property which is part of the estate of any bankrupt, and which after the execution of such deed, conveyance, assignment, surrender, admission, or other assurance, either at law or in equity, is or remains the estate of the bankrupt or of the trustee under the bankruptcy, and every power of attorney, proxy paper, writ, order, certificate, affidavit, bond, or other instrument or writing relating solely to the property of any bankrupt, or to any proceeding under any bankruptcy, shall be exempt from stamp duty (except in respect of fees under this Act), and from every other duty.

Death of witness.

116. In case of the death of a witness whose evidence has been received by any Court in any proceeding under this Act, his deposition, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Computation of time.

117. Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of such limited time the same shall be taken as exclusive of the day of such date or of the happening of such event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of such limited time according to such computation, unless such last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a day appointed for public fast, humiliation, or thanksgiving, or a day on which, in pursuance of a notification by the Lord Chancellor under this Act, the Court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

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Where by this Act any act or proceeding is directed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, such act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

Returns by bankruptcy officer.

118. The registrars and other officers of the courts acting in bankruptcy shall make to the comptroller in bankruptcy such returns of the business of their respective courts and offices, at such times and in such manner and form as may be prescribed by the rules of Court, and from such returns the comptroller shall, in manner prescribed by the rules of court, frame books (which shall be, under the regulations of the rules of Court, open for public information and searches), and also a general annual report to the Lord Chancellor, judicial and financial, respecting all matters within this Act, which report shall be laid before both Houses of Parliament.

Forfeiture of dividends after five years non-claim.

119. Where any money carried to the unclaimed dividend account before the commencement of this Act remains unclaimed for *five* years after the commencement of this Act, and where any money paid to the person prescribed by rule of Court for unclaimed dividends after the commencement of this Act remains unclaimed for *five* years after being so paid, then and in every such case the same shall be deemed forfeited to the Crown, and shall be disposed of as the Commissioners of Her Majesty's Treasury direct; provided that at any time after such forfeiture the Lord Chancellor may, if he thinks fit, by reason of the disability or absence beyond seas of the person entitled to the sum forfeited, or for any other reason appearing to him sufficient, direct that the forfeiture be remitted, and the same shall be remitted accordingly, *and the sum forfeited shall be repaid out of money provided by Parliament, and shall be distributed as it would have been if there had been no forfeiture.*

Removal of bankrupt from trusteeship.

120. Where a bankrupt is a trustee within the Trustee Act, 1850, section thirty-two of that Act shall have effect so as to authorize the Court of Chancery or a County Court (according to its jurisdiction under the County Courts Act, 1865,) to appoint a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears to the Court expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Construction of Acts mentioning commission of bankruptcy, &c.

121. Where in any Act of Parliament, instrument, or proceeding passed, executed, or taken before the commencement of this Act mention is made of a commission of bankruptcy or fiat in bank-

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ruptcy, the same shall be construed, with reference to the proceedings under a petition for adjudication of bankruptcy, as if a commission of a fiat in bankruptcy had been actually issued at the time of the filing of such petition.

Temporary Provisions.

London Bankruptcy Court.

Commissioners of London Bankruptcy Court to cease to hold offices.

122. From and after the commencement of this Act the present commissioners of the London Bankruptcy Court shall cease to hold their offices, but shall, during their lives, continue to receive the same salaries, and payable out of the same funds, as they would have received if this Act had not passed; and any proceedings pending before the said commissioners shall be continued in the Court as constituted under this Act.

Certain officers of London Bankruptcy Court to be attached to new Court.

123. The persons who, at the commencement of this Act, fill the offices of chief registrar and registrars in the London Bankruptcy Court shall be the registrars of the Court as constituted under this Act, and the taxing master and assisting taxing master of the said Court in London shall fill the same offices in the Court as constituted under this Act.

All the officers mentioned in this section shall receive the same salaries, hold their offices by the same tenure, and, subject to the provisions of this Act, and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore. The said taxing master or assisting taxing master shall perform such duties analogous to those hitherto performed by them as may be prescribed; but when any vacancy occurs in the office of such taxing master or assistant taxing master it shall not be filled up, and their respective duties shall be performed by the registrars for the time being of the said Court, or such one of them as the Lord Chancellor may direct.

Provision as to accountant in bankruptcy and official assignees and others.

124. The Lord Chancellor shall by order make provision for winding up the business in the offices of the official assignees and the accountant in bankruptcy belonging to the said London Bankruptcy Court and for the abolition of their offices, and the said official assignees and accountant shall conform to any such provisions, but, subject thereto, shall, until the abolition of their offices, receive the same salaries, hold the same by the same tenure, and perform the same duties as hitherto. The offices of messengers in the said London Bankruptcy Court shall, unless the Lord Chancellor otherwise direct, be abolished. But the Lord Chancellor may continue all or any of such last-mentioned offices during the lives of the present holders thereof, and so long as the same are continued the

holders thereof respectively shall receive the same salaries, hold their offices by the same tenure, and, subject to the provisions of this Act, and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore. A.D. 1869.

Any officers holding offices in the said London Bankruptcy Court at the commencement of this Act, in respect of whom no other provision is made by this Act, shall, unless the Lord Chancellor otherwise directs, be attached to the said London Court as constituted under this Act, and, if so attached, shall receive the same salaries, hold their offices by the same tenure, and, subject to the provisions of this Act, and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore; but the Lord Chancellor may at any time, by order, abolish any subsisting office in the said London Bankruptcy Court which appears to him to be unnecessary.

Country District Courts of Bankruptcy.

Courts of Bankruptcy to retain jurisdiction temporarily.

125. Subject as in this Act mentioned, every Country District Court of Bankruptcy shall be continued so long as the person who is at the time of the commencement of this Act commissioner of such Court remains in office; and, notwithstanding anything in this Act contained, if any person sought to be adjudged a bankrupt under this Act, being resident in England, reside or carry on business within the district of any Country District Court of Bankruptcy which is so continued as aforesaid, the following provisions shall take effect:

1. The expression "the Court" shall, subject to the provisions in this Act contained for removing the proceedings to the London Court of Bankruptcy, mean, instead of a local Bankruptcy Court as constituted under this Act, such Country District Court of Bankruptcy as aforesaid:

And all acts and things by this Act authorized or required to be done by or to, and all jurisdiction by this Act conferred by or in respect of any local Bankruptcy Court, or the judge or registrar of any local Banruptcy Court, shall, in cases when such District Court of Bankruptcy is substituted for such local Court, be done by or to or by or in respect of such District Court of Bankruptcy, or the commissioner or registrar of such District Court of Bankruptcy; and all the provisions of this Act shall be read and construed accordingly, substituting for "County Court" such District Court as aforesaid, for "County Court judge" or "judge of local Court" the commissioner of such District Court as aforesaid, and for the

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"officers of the County Court" the corresponding officers of the District Bankruptcy Court.

Provision as to official assignees and others in Country District Courts of Bankruptcy.

126. The Lord Chancellor shall, by order, make provisions for the winding-up of any business which may at the commencement of this Act be pending in the offices of any official assignees belonging to any Country District Court of Bankruptcy, and for the abolition of their offices; and the said official assignees shall conform to any such provisions, but, subject thereto, shall, until the abolition of their offices, receive the same salaries, hold the same by the same tenure, and perform the same duties as hitherto. The offices of messengers in any such Country District Court of Bankruptcy shall, unless the Lord Chancellor otherwise directs, be abolished. But the Lord Chancellor may continue all or any of such last-mentioned offices during the lives of the present holders thereof, and so long as the same are continued the holders thereof respectively shall receive the same salaries, hold their offices by the same tenure, and, subject to the provisions of this Act, and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore.

Temporary continuance of officers in Country District Courts of Bankruptcy. 1849, s. 11.

127. Every Country District Court of Bankruptcy continued under this Act shall, during its continuance, comprise the persons who are at the commencement of this Act the commissioners and registrars of such Court, with the clerks, ushers, and subordinate officers thereof; and such commissioners, registrars, clerks, ushers, and officers shall receive the same salaries, hold their offices by the same tenure, and, subject to the provisions of this Act and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore, but the Lord Chancellor may, at any time, by order, abolish any office in any Country District Court of Bankruptcy which appears to him to be unnecessary.

Power to interchange commissioners and offices of District Courts.

128. The Lord Chancellor may from time to time attach any commissioner or registrar or other officer of any Country District Court of Bankruptcy to such district as he thinks fit, and, if and whenever it appears to him expedient, may order any such commissioner to hold sittings at such places within his district as the Lord Chancellor thinks fit, and may give all necessary directions in that behalf; and unless and until the Lord Chancellor otherwise directs, the sittings of such commissioners shall continue to be held at the places at which they are held at the commencement of this Act.

Vacancies in District Courts not to be filled up.

129. A vacancy in the office of any commissioner of a Country District Court of Bankruptcy by death, resignation, or otherwise

shall not be filled, and thereupon that Country District Court in which he presided shall be deemed to be abolished. A.D. 1869.

Provision for casual vacancies.

130. If a vacancy in the office of registrar of any such Court happens during the continuance of the Court, it shall not be filled; but the Lord Chancellor may, if it appears to him requisite for the due conduct of the business of the Court, appoint a fit person to act as registrar, during the continuance of the Court.

Disposal of business and abolition of offices in Country District Courts.

131. Such part of the business pending in a Country District Court at its abolition as the Lord Chancellor thinks fit shall be disposed of by the registrar of that Court, (who shall for that purpose continue to have and discharge all his powers and authorities, rights and duties,) and the residue of that business shall be transferred to the London Bankruptcy Court, or to such County Court or County Courts, as the Lord Chancellor, by order before or after its abolition, thinks fit to direct; but, subject as aforesaid, the office of any registrar in such Country District Court shall be abolished.

Compensation to Holders of abolished Offices.

Compensation to holders of abolished offices.

132. *Where any district commissioner, registrar, or any other person whose office is abolished by or under this Act, on the commencement of this Act or on any other event, held his office during good behaviour, or during good behaviour subject only to removal by the Lord Chancellor, by order, for some sufficient reason to be stated in such order, such officer shall, from and after such abolition, receive, out of moneys to be provided by Parliament, an annuity during his life equal to the amount which he received by way of salary during his continuance in office.*

Compensation to clerks.

133. *The Commissioners of Her Majesty's Treasury may, on the petition of any person whose office is abolished by or under this Act, on the commencement of this Act or on any other event, and whose compensation in respect of the abolition of his office is not otherwise provided for by this Act, inquire whether any, and, if any, what compensation ought to be made to the petitioner, regard being had to the conditions on which his appointment was made, the nature of his employment, and the duration of his service; and if they think that his claim to compensation is established, may award to him, out of moneys to be provided by Parliament, such compensation, by annuity or otherwise, as under the circumstances of the case they think just and reasonable.*

Acceptance of public

134. *If any person to whom a compensation annuity is granted under this Act accepts any public employment, he shall, during the*

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employment by annuitants.

continuance of that employment, receive only so much (if any) of that annuity as, with the remuneration of that employment will amount to a sum not exceeding the salary or emoluments in respect of the loss whereof the annuity was awarded, and if the remuneration of that employment is equal to or greater than such salary or emoluments the annuity shall be suspended so long as he receives that remuneration.

Change of Jurisdiction by Chancellor.

Power of the Lord Chancellor with respect to jurisdiction of Bankruptcy Court.

135. Notwithstanding anything in this Act contained, the Lord Chancellor may from time to time, by order under his hand, do the following things:

(1.) Abolish any Country District Court of Bankruptcy, and make orders in respect to the disposition of the business thereof, in the same manner if the commissioner of such Country District Court of Bankruptcy had ceased to hold his office:

(2.) Exclude any County Court from having jurisdiction in bankruptcy, or give to any County Court a jurisdiction in bankruptcy larger than its district for County Court purposes, and appoint the places in which the judge of such County Court is to sit in bankruptcy.

Bankruptcy.

A

BILL

To consolidate and amend the Law of Bankruptcy.

(*Prepared and brought in by Mr. Attorney General and Mr. Solicitor General.*)

Ordered, by The House of Commons, *to be Printed*, 15 *March* 1869.

[Bill 50.]

Under 6 *oz.*

Bankruptcy Bill.

[AS AMENDED IN COMMITTEE.]

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5. Exclusion of companies and large partnerships.

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132. Acceptance of public employment by annuitants.

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Consolidate and amend the Law of Bankruptcy. A.D. 1869.

Preliminary.

WHEREAS it is expedient to consolidate and amend the law relating to Bankruptcy:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as "The Bankruptcy Act, 1869." Short title.

2. This Act shall not, except in so far as is expressly provided, apply to Scotland or Ireland. Application of Act.

3. This Act shall not come into operation until the first day of January one thousand eight hundred and seventy, which date is herein-after referred to as the commencement of this Act. Commencement of Act.

4. In this Act, if not inconsistent with the context, the following terms have the meanings herein-after respectively assigned to them, that is to say:— Interpretation of certain terms in the Act.

"The Court" shall mean the court having jurisdiction in bankruptcy as by this Act provided: "Court:"

"The registrar" shall mean the registrar of "the Court" as above defined: "Registrar:"

"Prescribed" shall mean prescribed by rules of Court to be made as in this Act provided: "Prescribed:"

"Property" shall mean and include money, goods, things in action, land, and every description of property, whether real or personal; also, obligations, easements, and every description of estate, interest, and profit, present or future, vested or contingent, arising out of or incident to property as above defined: "Property:"

"Debt provable in bankruptcy," shall include any debt or liability by this Act made provable in bankruptcy: "Debt."

"Person" shall include a body corporate. "Person."

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Exclusion of companies and large partnerships.

5. A partnership, association, or company, whether corporate or unincorporate, consisting of more than seven members, shall not be adjudged bankrupt under this Act.

PART I.

Adjudication and Vesting of Property.

Part I.

Adjudication.

Adjudication.

Petition for adjudication in bankruptcy.

6. A single creditor, or two or more creditors if the debt due to such single creditor, or the aggregate amount of debts due to such several creditors, from any debtor, amount to a sum of not less than fifty pounds, may present a petition to the Court, praying that the debtor be adjudged a bankrupt, and alleging as the ground for such adjudication any one or more of the following acts or defaults, herein-after included under the expression "acts of bankruptcy:"

(1.) That the debtor has, in England or elsewhere, made a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors:

(2.) That the debtor has, in England or elsewhere, made a fraudulent conveyance, gift, delivery, or transfer of his property or of any part thereof:

(3.) That the debtor has absconded, or has, with intent to defeat or delay his creditors, gone abroad:

(4.) That execution issued against the debtor on any legal process for the purpose of obtaining payment of not less than fifty pounds has in the case of a trader been levied by seizure and sale of his goods, or has in the case of a person, whether a trader or not, been returned unsatisfied in whole or in part:

(5.) That the creditor presenting the petition has served in the prescribed manner on the debtor a demand under the hand of the creditor requiring the debtor to pay a sum due, of an amount of not less than fifty pounds, and stating that in the event of non-compliance with the demand a petition will be presented against him praying that he may be adjudicated a bankrupt, and the debtor being a trader has for the space of seven days, or not being a trader has for the space of three weeks, succeeding the service of such demand, neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor:

But no person shall be adjudged a bankrupt on any of the above grounds unless the act of bankruptcy on which the adjudication is grounded has occurred within two months before the presentation of the petition for adjudication; moreover, the debt of the

petitioning creditor must be a liquidated sum, and must not be a secured debt, unless the petitioner state in his petition that he will be ready to give up such security for the benefit of the creditors in the event of the debtor being adjudicated a bankrupt.

The expression "a trader" shall, for the purposes of this Act, mean the several persons in that behalf mentioned in the first schedule to this Act annexed.

Proceedings on petition.

7. A petition praying that a debtor may be adjudged a bankrupt, in this Act referred to as a bankruptcy petition, shall be served on such debtor. At the hearing the Court shall require proof of the debt of the petitioning creditor, and of the trading, if necessary, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with such proof, shall adjudge the respondent to be bankrupt. The Court may adjourn the petition, either conditionally or unconditionally, for the procurement of further evidence, or for any other just cause, or may dismiss the petition, with or without costs, as the Court thinks just.

Proceedings if debt of petitioning creditor is contested.

8. Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such amount as would justify the petitioner in presenting a bankruptcy petition against him the Court, upon such security (if any) being given as the Court may require, for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing such debt, may stay all proceedings on the petition for such time as may be required for trial of the question relating to such debt, either before the Court itself, or some other competent tribunal.

Where proceedings are stayed the Court may, if by reason of the delay caused by such stay of proceedings or for any other cause it thinks just, forthwith adjudge the debtor a bankrupt on the petition of some other creditor, and shall thereupon dismiss, upon such terms as it thinks just, the petition proceedings in which have been stayed as aforesaid.

Advertisement of order of adjudication.

9. A copy of an order of the Court adjudging the debtor to be bankrupt shall forthwith be published in the London Gazette, and be advertised locally in such manner (if any) as may be prescribed, and the date of such order shall be the date of the adjudication for the purposes of this Act, and the production of a copy of the gazette containing such order as aforesaid shall be conclusive evidence in all legal proceedings of the debtor having been adjudged a bankrupt, and of the date of the adjudication.

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PART I.

Appointment of Trustee.

Definition of commencement of bankruptcy.

10. The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the act of bankruptcy being completed on which the order is made adjudging him to be bankrupt; or if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to and to commence at the time of the first of the acts of bankruptcy that may, in the course of the bankruptcy proceedings, be proved to have been committed by the bankrupt within twelve months next preceding the order of adjudication.

Creditors bound by bankruptcy proceedings.

11. Where a debtor has been adjudicated a bankrupt, no creditor to whom the bankrupt is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the bankrupt in respect of such debt except in manner directed by this Act. But this section shall not affect the power of any creditor holding a security upon the property of the bankrupt to realize or otherwise deal with such security in the same manner as he would have been entitled to realize or deal with the same if this section had not been passed.

Power of Court, after presentation of petition, to restrain suits, &c. and appoint receiver.

12. The Court may, at any time after the presentation of a bankruptcy petition against the debtor, restrain further proceedings in any action, suit, execution, or other legal process against the debtor, upon such terms as the Court may think just. The Court may also, at any time after the presentation of such petition, appoint a receiver of the property of the debtor against whom the petition is presented, or of any part of such property, and may, on the application of any creditor, direct immediate possession to be taken of such property, or any part thereof.

Appointment of Trustee.

Meeting of creditors for appointment of persons to administer bankrupt's property.

13. When an order has been made adjudging a debtor bankrupt, herein-after referred to as an order of adjudication, the property of the bankrupt shall become divisible amongst his creditors in proportion to the debts proved by them in the bankruptcy; and for the purpose of effecting such division the Court shall summon a general meeting of his creditors, and the creditors assembled at such meeting shall and may do as follows:

1. They shall, by resolution, appoint some fit person, whether a creditor or not, to fill the office of trustee of the property of the bankrupt, at such remuneration as they may determine, subject to any prescribed regulations:
2. They shall, subject as aforesaid, by resolution, declare the security to be given by the person so appointed before he enters on the office of trustee:

3. They shall, by resolution, appoint some other fit persons, not exceeding five in number, and being creditors qualified to vote at such first meeting of creditors as is in this Act, mentioned, to form a committee of inspection for the purpose of superintending the administration by the trustee of the bankrupt's property:

4. They may, by resolution, give directions as to the manner in which the property is to be administered by the trustee, and it shall be the duty of the trustee to conform to such directions, unless the Court for some just cause otherwise orders.

Descriptions of bankrupt's property divisible amongst creditors.

14. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars:

(1.) Property held by the bankrupt on trust for any other person:

(2.) Such rights of action as would not pass to the executors or administrators of the bankrupt if he were dead:

(3.) The tools (if any) of his trade, and the necessary wearing apparel of himself, his wife and children, to a value inclusive of tools and apparel not exceeding twenty pounds in the whole:

But it shall comprise the following particulars:

(4.) All such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him during its continuance:

(5.) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or during its continuance, except the right of nomination to a vacant ecclesiastical benefice:

(6.) All goods and chattels being, at the commencement of the bankruptcy, in the possession, order, or disposition of the bankrupt by the consent and permission of the true owner, of which goods and chattels the bankrupt is reputed owner, or of which he has taken upon himself the sale or disposition as owner.

Regulations as to first meeting of creditors.

15. The general meeting of creditors to be summoned as aforesaid by the Court, and in this Act referred to as the first meeting of creditors, shall be held in the prescribed manner and subject to the prescribed regulations as to the quorum, adjournment of meeting, and all other matters relating to the conduct of the meeting or the proceedings thereat.

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PART I.

Appointment of Trustee.

Provided that,—

1. The meeting shall be presided over by the registrar:
2. A person shall not be entitled to vote as a creditor unless previously thereto he has in the prescribed manner proved a debt provable under the bankruptcy to be due to him:
3. A creditor shall not vote at the said meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained:
4. A secured creditor shall, for the purpose of voting, be deemed to be a creditor only in respect of the balance (if any) due to him after deducting the value of his security; and the amount of such balance shall, until the security be realized, be determined in the prescribed manner. He may, however, at or previously to the meeting of creditors, give up the security to the trustee, and thereupon he shall rank as a creditor in respect of the whole sum due to him:
5. A "secured creditor" shall in this Act mean any creditor holding any mortgage, charge, or lien on the bankrupt's estate as security for a debt due to him:
6. Votes may be given either personally or by proxy:
7. An ordinary resolution shall be decided by a majority in value of the creditors present personally or by proxy at the meeting and voting on such resolution:
8. A special resolution shall be decided by a majority in number, and three fourths in value, of the creditors present personally or by proxy at the meeting and voting on such resolution.

Devolution of property on trustee.

16. Until a trustee is appointed by the creditors the registrar shall be the trustee for the purposes of this Act, and immediately upon the order of adjudication being made the property of the bankrupt shall vest in the registrar. On the appointment of a trustee by the creditors the property shall forthwith pass to and vest in the trustee so appointed.

The expression "trustee," when used in this Act, shall include the person for the time being filling the office of trustee, whether he be the registrar or not; but when the registrar holds the office of trustee he shall, unless the Court otherwise orders, in the administration of the property of the bankrupt, apply to the Court for directions as to the mode of administering such property, and shall not take possession thereof unless directed by the Court.

Evidence of appointment of trustee.

17. The appointment of a trustee by the creditors shall be reported to the Court, and the Court, upon being satisfied that the

requisite security has been entered into by him, shall give a certificate declaring him to be trustee of the bankruptcy named in the certificate, and such certificate shall be conclusive evidence of the appointment of the trustee, and such appointment shall date from the date of the certificate. When the registrar holds the office of trustee, or when the trustee is changed, a like certificate of the Court may be made declaring the person therein named to be trustee, and such certificate shall be conclusive evidence of the person therein named being trustee.

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Part I.

Appointment of Trustee.

PART II.

Administration of Property.

Part II.

General Provisions affecting Administration of Property.

General Provisions.

Conduct of bankrupt.

18. The bankrupt shall, to the utmost of his power, aid in the realization of his property, and the distribution of the proceeds amongst his creditors. He shall give such inventory of his property, such list of his creditors and of their debts, submit to such examination in respect of his property or his creditors, attend such meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by rules of Court, or be directed by the Court by any special order or orders made in reference to any particular bankruptcy, or made on the occasion of any special application by the trustee or any creditor.

If the bankrupt fail to perform the duties imposed on him by this section, or if he fail to deliver up possession to the trustee of any part of his property, which is divisible amongst his creditors under this Act, and which may for the time being be in the possession or under the control of such bankrupt, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

Conduct of trustee, and appeal to Court against trustee.

19. The trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by the creditors at any general meeting, or by the committee of inspection, and any directions given by the creditors at any general meeting

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PART II.

Dealings with Property.

shall be deemed to override any directions given by the committee of inspection.

Subject to the provisions of this Act, and to such directions as aforesaid, the trustee shall exercise his own discretion in the management of the estate, and its distribution amongst the creditors. The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes; he may also apply to the Court, in manner prescribed, for directions in relation to any particular matter arising under the bankruptcy.

The bankrupt, or any creditor, debtor, or other person aggrieved by any act of the trustee, may apply to the Court, and the Court may confirm, reverse, or modify the act complained of, and make such order in the premises as it thinks just. The Court may from time to time, during the continuance of a bankruptcy, summon general meetings of the creditors for the purpose of ascertaining their wishes, and may, if the Court thinks fit, direct the registrar to preside at such meetings.

The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position in all respects as if he were a receiver of such property appointed by the Court of Chancery, and the Court may, on his application, enforce such acquisition or retention of property accordingly.

Regulations as to general meetings of creditors subsequent to first meeting.

20. The provisions of this Act with respect to the first general meeting of creditors shall apply to any subsequent general meeting of creditors in a bankruptcy, with this exception, that subsequent meetings of creditors may be summoned by the trustee, or by a member of the committee of inspection, and that such meetings may, unless otherwise directed by the Court in the case of meetings summoned by the Court, be presided over by any person chosen by the creditors assembled at such meeting, and that any creditor whose debt has been proved, or the value of whose debt has been ascertained at or subsequently to such first meeting, shall be allowed to be present and to vote thereat.

Dealings with Bankrupt's Property.

Possession of property by trustee.

21. Where any portion of the property of the bankrupt consists of stock, shares in ships, shares, or any other property transferable in the books of any company, office, or person, the right to transfer such property shall be absolutely vested in the trustee to the same extent as the bankrupt might have exercised the same if he had not become bankrupt. Where any portion of such estate

consists of copyhold or customary property, or any like property passing by surrender and admittance or in any similar manner, the trustee shall not be compellable to be admitted to such property, but may deal with the same in the same manner as if such property had been capable of being and had been duly surrendered or otherwise conveyed to such uses as the trustee may appoint; and any appointee of the trustee shall be admitted or otherwise invested with the property accordingly.

Where any portion of the property of the bankrupt consists of things in action, any action, suit, or other proceeding for the recovery of such things instituted by the trustee may be so instituted either in his official name as in this Act provided, or in the name of the bankrupt; and if he institute the same in his official name, such things shall, for the purpose of such action, suit, or other proceeding, be deemed to be assignable in law, and to have been duly assigned to the trustee in his official capacity.

The trustee shall, as soon as may be after his appointment, take possession of the deeds, books, and documents of the bankrupt, and all other property capable of manual delivery.

Disclaimer as to onerous property.

22. When any property of the bankrupt acquired by the trustee under this Act consists of land of any tenure burdened with onerous covenants, of unmarketable shares in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee, notwithstanding he has endeavoured to sell, or has taken possession of such property or exercised any act of ownership in relation thereto, may, by writing under his hand, disclaim such property, and upon the execution of such disclaimer the property disclaimed shall, if the same is a contract or lease, be deemed to be determined from the date of the order of adjudication, and if the same be shares in any company be deemed to be forfeited from that date, and, if any other species of property it shall revert, so far as regards the estate or interest of the bankrupt, to such person entitled or interested in such property as the Court may, having regard to all the circumstances of the case, direct, but in no case shall any estate or interest therein remain in the bankrupt. Any person interested in any disclaimed property may apply to the Court, and the Court may, upon such application, order possession of the disclaimed property to be delivered up to him, or make such other order as to the possession thereof as may be just.

Any person injured by the operation of this section shall be deemed

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a creditor of the bankrupt to the extent of such injury, and may accordingly prove a debt against his property.

Limitation of time for disclaimer.

23. The trustee shall not be entitled to disclaim any property in pursuance of this Act in cases where an application in writing has been made to him by any person interested in such property, requiring such trustee to decide whether he will disclaim or not, and the trustee has for a period of not less than twenty-eight days after the receipt of such application or such further time as may be allowed by the Court declined or neglected to give notice whether he disclaims the same or not.

Power of trustee to deal with property.

24. Subject to the provisions of this Act, the trustee shall have power to do the following things:

(1.) To receive and decide upon proof of debts in the prescribed manner:

(2.) To carry on the business of the bankrupt so far as may be necessary for the beneficial winding up of the same:

(3.) To bring or defend any action, suit, or other legal proceeding relating to the property of the bankrupt:

(4.) To deal with any property to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with the same; and the sections fifty-six to seventy-three (both inclusive) of the Act of the session of the third and fourth years of the reign of King William the Fourth (chapter seventy-four), "for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance," shall extend and apply to proceedings in bankruptcy under this Act as if those sections were here re-enacted and made applicable in terms to such proceedings:

(5.) To exercise any powers the capacity to exercise which is vested in him under this Act, and to execute all powers of attorney, deeds, and other instruments expedient or necessary for the purpose of carrying into effect the provisions of this Act:

(6.) To sell all the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt) by public auction or private contract, with power, if he thinks fit, to transfer the whole thereof to any person or company, or to sell the same in parcels:

(7.) To give receipts for any money received by him effectually discharging the person paying such monies from all responsibility in respect of the application thereof:

(8.) To prove, rank, claim, and draw a dividend in the matter of the bankruptcy or sequestration of any debtor of the bankrupt:

(9.) With the consent of the committee of inspection, to refer any dispute to arbitration.

To allow bankrupt to manage property.

25. The trustee may appoint the bankrupt himself to superintend the management of the property or of any part thereof, or to carry on the trade of the bankrupt (if any) for the benefit of the creditors, and in any other respect to aid in administering the property in such manner and on such terms as the creditors direct.

Power of trustee to compromise, &c.

26. The trustee may, with the sanction of a special resolution of the creditors assembled at any meeting of which notice has been given specifying the object of such meeting, do all or any of the following things:

(1.) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts:

(2.) Compromise all debts, claims, and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any debtor or person who may have incurred any liability to the bankrupt, upon the receipt of such sums, payable at such times, and generally upon such terms as may be agreed upon:

(3.) Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors in respect of any debts provable under the bankruptcy:

(4.) Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person:

(5.) To divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot advantageously be realized by sale.

The sanction given for the purposes of this section may be a general permission to do all or any of the above mentioned things, or a permission to do all or any of them in any specified case or cases.

Clause A. Power of trustee to accept composition or

27. The trustee may, with the sanction of a special resolution of the creditors assembled at any meeting of which notice has been given specifying the object of such meeting, accept any composition

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Part II.

Debts and Assets.

general scheme of arrangement.

offered by the bankrupt, or assent to any general scheme of settlement of the affairs of the bankrupt upon such terms as may be thought expedient, and with or without a condition that the order of adjudication is to be annulled, subject nevertheless to the approval of the Court, to be testified by the judge of the Court signing the instrument containing the terms of such composition or scheme, or embodying such terms in an order of the Court.

Where the annulling the order of adjudication is made a condition of any composition with the bankrupt or of any general scheme for the liquidation of his affairs, the Court, if it approves of such composition or general scheme, shall annul the adjudication on an application made by or on behalf of any person interested, and the adjudication shall be annulled from and after the date of the order annulling the same.

The provisions of any composition or general scheme made in pursuance of this Act may be enforced by the Court on a motion made in a summary manner by any person interested, and any disobedience of the order of the Court made on such motion shall be deemed to be a contempt of Court. The approval of the Court shall be conclusive as to the validity of any such composition or scheme, and it shall be binding on all the creditors so far as relates to any debts due to them and provable under the bankruptcy.

Trustee to pay moneys into bank.

28. The trustee shall pay all sums from time to time received by him into the Bank of England, or some other prescribed bank; and if he at any time keep in his hands any sum exceeding fifty pounds for more than ten days he shall be subject to the following liabilities; that is to say,

(1.) He shall pay interest at the rate of twenty pounds per centum per annum on the excess of such sum above fifty pounds as he may retain in his hands:

(2.) Unless he can prove to the satisfaction of the Court that his reason for retaining the money was sufficient, he shall, on the application of any creditor, be dismissed from his office by the Court, and shall have no claim for remuneration, and be liable to any expenses to which the creditors may be put by or in consequence of his dismissal.

Payment of Debts and Distribution of Assets.

Description of debts provable in bankruptcy.

29. Demands in the nature of unliquidated damages arising otherwise than by reason of a contract or promise shall not be provable in bankruptcy.

Save as aforesaid all debts and liabilities present or future, certain or contingent, to which the bankrupt is subject at the commencement of the bankruptcy, or to which he may become subject

during the continuance of the bankruptcy by reason of any obligation incurred previously to its commencement, shall be deemed to be debts provable in bankruptcy, and may be proved in the prescribed manner before the trustee in the bankruptcy.

An estimate shall be made according to the rules of the Court for the time being in force, so far as the same may be applicable, and where they are not applicable at the discretion of the trustee of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency or contingencies, or for any other reason does not bear a certain value.

Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the Court, and the Court may, if it think the value of the debt or liability incapable of being fairly estimated, make an order to that effect, and upon such order being made, such debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy, but if the Court think that the value of the debt or liability is capable of being fairly estimated, it may direct such value to be assessed with the consent of all the parties interested before the Court itself without the intervention of a jury, or if such parties do not consent by a jury, either before the Court itself or some other competent Court, and may give all necessary directions for such purpose, and the amount of such value when assessed shall be provable as a debt under the bankruptcy.

"Liability" shall for the purposes of this Act include any compensation for work or labour done, any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement, or undertaking, whether such breach does or does not occur, or is or is not likely to occur or capable of occurring before the close of the bankruptcy, and generally it shall include any express or implied engagement, agreement, or undertaking, to pay, or capable of resulting in the payment of money or money's worth, whether such payment be as respects amount fixed or unliquidated; as respects time present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation capable of being ascertained by fixed rules, or assessable only by a jury, or as matter of opinion.

Preferential debts.

30. The debts herein-after mentioned shall be paid in priority to all other debts. Between themselves such debts shall rank equally, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves; that is to say,

(1.) All parochial or other local rates due from him at the date of the order of adjudication, and having become due and

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payable within six months next before such time, all assessed taxes, land tax, and property or income tax assessed on him up to the fifth day of April next before the date of the order of adjudication, and not exceeding in the whole one year's assessment; with this proviso, that the bankrupt shall not be liable to be assessed to taxes after such fifth day of April in respect of any article kept and used for the purposes of trade at or before the date of the order of adjudication, and sold under the bankruptcy, and not kept or used by the bankrupt after such fifth day of April:

(2.) All wages or salary due to any clerk or servant in the employment of the bankrupt at the date of the order of adjudication, not exceeding three months wages or salary, and not exceeding fifty pounds; all wages due to any labourer or workman in the employment of the bankrupt at the date of the order of adjudication, and not exceeding one month's wages:

Save as aforesaid, all debts provable under the bankruptcy shall be paid pari passu.

Preferential claim in case of apprenticeship.

31. Where at the time of the presentation of the petition for adjudication any person is apprenticed or is an articled clerk to the bankrupt, the order of adjudication shall, if either the bankrupt or apprentice or clerk give notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of such apprentice or clerk to the bankrupt as a fee, the trustee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as he, subject to an appeal to the Court, thinks reasonable, out of the bankrupt's property to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

Where it appears expedient to a trustee he may, on the application of any apprentice or articled clerk to the bankrupt, or any person acting on behalf of such apprentice or articled clerk, instead of acting under the preceding provisions of this section, transfer the indenture of apprenticeship or articles of agreement to some other person.

Power for landlord to distrain for rent.

32. The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the

bankrupt for the rent due to him from the bankrupt, with this limitation, that if such distress for rent be levied after the commencement of the bankruptcy it shall be available only for one year's rent accrued due prior to the commencement of the bankruptcy, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the overplus due for which the distress may not have been available.

Proof in case of rent and periodical payment.

33. When any rent or other payment falls due at stated periods, and the order of adjudication happens at any time other than one of such periods, the person entitled to such rent or payment may prove for a proportionate part thereof up to the day of the adjudication as if such rent or payment grew due from day to day.

Clause C. Interest on debts.

34. Interest on any debt provable in bankruptcy, may be allowed by the trustee under the same circumstances in which interest would have been allowable by a jury if an action had been brought for such debt.

Clause D. Proof in respect of distinct contracts.

35. If any bankrupt is at the date of the order of adjudication liable in respect of distinct contracts as member of two or more distinct firms, or as a sole contractor, and also as member of a firm; the circumstance that such firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of such contracts, against the properties respectively liable upon such contracts.

Allowance to bankrupt for maintenance or service.

36. The trustee, with the consent of the creditors, testified by a resolution passed in general meeting, may from time to time, during the continuance of the bankruptcy, make an allowance to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate.

Set off.

37. Where there have been mutual credits, mutual debts, or other mutual dealings between the bankrupt and any other person, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of such account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set off against the property of a bankrupt in any case where he had at the time of giving credit to the bankrupt notice of an act of bankruptcy committed by such bankrupt and available against him for adjudication.

Provision as to secured creditor.

38. A creditor holding a specific security on the property of the bankrupt, or on any part thereof, may, on giving up his security, prove for his whole debt.

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He shall also be entitled to a dividend in respect of the balance due to him after realizing or giving credit for the value of his security, in manner and at the time prescribed.

A creditor holding security and not complying with the foregoing conditions shall be excluded from all share in any dividend.

Dividends.

Distribution of dividends.

39. The trustee shall from time to time, when he has realized a sufficient sum of money from the property of the bankrupt, declare a dividend amongst the creditors who have proved to his satisfaction debts provable in bankruptcy, and shall distribute the same accordingly; and in the event of his not declaring a dividend for the space of six months, he shall summon a meeting of the creditors, and explain to them his reasons for not declaring the same.

Provision for creditors residing at a distance, &c.

40. In the calculation and distribution of a dividend it shall be obligatory on the trustee to make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting, that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy, the subject of claims not yet determined.

Right of creditor who has not proved debt before declaration of a dividend.

41. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any moneys for the time being in the hand of the trustee any dividend or dividends he may have failed to receive before such moneys are made applicable to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

42. When the trustee has converted into money all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realized without needlessly protracting the bankruptcy, he shall declare a final dividend, and give notice of the time at which it will be distributed.

Bankrupt entitled to surplus.

43. The bankrupt shall be entitled to any surplus remaining after payment of his creditors, and of the costs, charges, and expenses of the bankruptcy.

No action for dividend.

44. An action for a dividend shall not lie against the trustee, but if the trustee refuses to pay any dividend the Court may, if it thinks fit, order the trustee to pay the same, and also to pay out of his own moneys interest thereof for the time that it is withheld, and the costs of the application.

Close of Bankruptcy.

Close of bankruptcy.

45. When the whole property of the bankrupt has been realized for the benefit of his creditors, or so much thereof as can, in the joint opinion of the trustee and committee of inspection, be realized without needlessly protracting the bankruptcy, or a composition or arrangement has been completed, the trustee shall make a report accordingly to the Court, and the Court, if satisfied that the whole of the property of the bankrupt has been realized for the benefit of his creditors, or so much thereof as can be realized without needlessly protracting the bankruptcy, or that a composition or arrangement has been completed, shall make an order that the bankruptcy has closed, and the bankruptcy shall be deemed to have closed at and after the date of such order.

A copy of the order closing the bankruptcy may be published in the London Gazette, and the production of a copy of such gazette containing a copy of the order shall be conclusive evidence of the order having been made and of the date and contents thereof.

Clause B. *Discharge of Bankrupt.*

Order of discharge.

Discharge of Bankrupt.

46. When a bankruptcy is closed, or at any time during its continuance, with the assent of the creditors testified by a special resolution, the bankrupt may apply to the Court for an order of discharge; but such application shall not be entertained unless it is proved to the Court that one of the following conditions has been fulfilled, that is to say, either that a dividend of not less than ten shillings in the pound has been paid out of his property, or might have been paid except through the negligence or fraud of the trustee, or that a special resolution of his creditors has been passed to the effect that his bankruptcy has, in their opinion, arisen from unavoidable misfortune, and that they desire that an order of discharge should be granted to him; and, although the application is entertained, the Court may suspend for such time as it deems to be just, or withhold altogether, the order of discharge in the circumstances following, namely; if it appears to the Court on the representation of the creditors made by special resolution, of the truth of which representation the Court is satisfied, or by other sufficient evidence, that the bankrupt has made default in giving up to his creditors the property which he is required by this Act to give up; or that a prosecution has been commenced against him in pursuance of the provisions relating to the punishment of fraudulent debtors, contained in the "Debtors Act, 1869," in respect of any offence alleged to have been committed by him against the said Act.

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PART II.

Release of Trustees.

Effect of order of discharge.

47. An order of discharge shall release the bankrupt from all debts provable under the bankruptcy, with the exception of—

(1.) Debts due to the Crown:

(2.) Debts with which the bankrupt stands charged at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence:

And he shall not be discharged from such excepted debts unless the Commissioners of the Treasury certify in writing their consent to his being discharged therefrom.

An order of discharge shall be sufficient evidence of the bankruptcy, and of the validity of the proceedings thereon, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by such order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

Exception of joint debtors.

48. The order of discharge shall not release any person who, at the date of the order or adjudication, was a partner with the bankrupt, or was jointly bound or had made any joint contract with him.

Possible allowance to bankrupt after discharge.

49. The creditors may, if they think fit, by special resolution, direct the trustee to set apart out of the produce of his property a certain portion for the maintenance of the bankrupt after his discharge, instead of distributing the whole amongst his creditors.

Release of Trustee.

Release of trustee.

50. When the bankruptcy is closed the trustee shall call a meeting of the creditors to consider an application to be made to the Court for his release. At the meeting the trustee shall lay before the assembled creditors an account showing the manner in which the bankruptcy has been conducted, with a list of the unclaimed dividends, if any, and of the property, if any, outstanding, and shall inform the meeting that he proposes to apply to the Court for a release.

The creditors assembled at the meeting may express their opinion as to the conduct of the trustee, and they, or any of them, may appear before the Court and oppose the release of the trustee.

The Court, after hearing what, if anything, can be urged against the release of the trustee, shall grant or withhold the release accordingly, and if it withhold the release shall make such order as

it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty, and shall suspend his release until such charging order has been complied with, and the Court thinks just to grant the release of the trustee.

Duty of trustee as to unclaimed dividends and outstanding property.

51. Unclaimed dividends, and any other monies arising from the property of the bankrupt, remaining under the control of the trustee at the close of the bankruptcy of any bankrupt, or accruing thereafter, shall be accounted and paid over to such account as may be directed by the rules of Court; and any parties entitled thereto may claim the same in manner directed by such rules. The trustee shall also deliver a list of any outstanding property of the bankrupt to the prescribed persons, and the same shall, when practicable, be got in and applied for the benefit of the creditors in manner prescribed.

Effect of release of trustee.

52. The order of the Court releasing the trustee of a bankruptcy shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee of such bankrupt; but such order may be revoked by the Court on proof that it was obtained by fraud.

Status of undischarged Bankrupt.

Status of undischarged bankrupt.

53. Where a person who has been made bankrupt has not obtained his discharge, then, from and after the close of his bankruptcy, the following consequences shall ensue:

(1.) Any creditor to whom any balance is due in respect of any debt proved by him under the bankruptcy may grant to the debtor so made bankrupt a release of any portion of such balance, either gratuitously or upon such terms as may be agreed upon between them, and the debtor to whom such release is granted shall be a creditor on his own property in respect of the balance so released, in the same manner as if that property belonged to another person, and the balance released were a debt incurred by the owner of such property, which debt had been duly assigned for a valuable consideration to the person to whom the release is granted, subject to this qualification, that a debtor to whom a debt has been released in manner aforesaid shall not, in the event of a subsequent bankruptcy, be entitled to vote in respect of such debt:

(2.) No portion of a debt provable under the bankruptcy shall be enforced against the property of the person so made

bankrupt until the expiration of five years from the close of the bankruptcy; and during that time, if he pay to his creditors such additional sum as will, with the dividend paid out of his property during the bankruptcy, make up ten shillings in the pound, he shall be entitled to an order of discharge in the same manner as if a dividend of ten shillings in the pound had originally been paid out of his property:

(3.) At the expiration of a period of five years from the close of the bankruptcy, if the debtor made bankrupt has not obtained an order of discharge, any balance remaining unpaid in respect of any debt proved in such bankruptcy (but without interest in the meantime), shall be deemed to be a subsisting debt in the nature of a judgment debt, and, subject to the rights of any persons who have become creditors of the debtor since the close of his bankruptcy, may be enforced against any property of the debtor, with the sanction of the Court which adjudicated such debtor a bankrupt, or of the Court having jurisdiction in bankruptcy in the place where the property is situated, but to the extent only, and at the time and in manner directed by such Court, and after giving such notice and doing such acts as may be prescribed in that behalf.

Audit.

Audit by comptroller in Bankruptcy.

54. The accounts of the trustee shall be audited by an officer to be called the Comptroller in Bankruptcy.

Appointment of comptroller.

55. The first and any subsequent comptroller shall be appointed by the Lord Chancellor, and hold office during his pleasure. The comptroller shall be provided with such office in London, and with such assistance by way of clerks, messengers, and other officers, as may be directed by the Lord Chancellor, with the approval of the Treasury. The clerks, messengers, and other officers in the office of the comptroller shall be appointed and dismissible by the comptroller, and there shall be paid to them respectively such salaries as may be approved by the Treasury.

The comptroller shall be deemed to be a permanent officer of the Civil Service within the meaning of the Superannuation Act, but the clerks, messengers, and other officers in his service shall, although paid out of public moneys, be deemed to be the servants of the comptroller, and not permanent civil servants of Her Majesty.

Subject to the provisions of this Act, the comptroller shall perform such duties as may be assigned to him and conform to such directions as may be given to him by the Lord Chancellor.

Return of accounts to comptroller.

56. Every trustee of a bankrupt shall from time to time, as may be prescribed, and not less than once during the bankruptcy, transmit to the comptroller a statement showing the proceedings in such bankruptcy up to the date of the statement containing the prescribed particulars, and made out in the prescribed form; and any trustee failing to transmit accounts in compliance with this section shall be deemed guilty of a contempt of court, and be punishable accordingly.

Duty of comptroller.

57. The comptroller shall examine the statement transmitted to him, and shall call the trustee to account for any misfeasance, neglect, or omission which may appear on such statement, and may require the trustee to make good any loss the estate of the bankrupt may have sustained by such misfeasance, neglect, or omission. If the trustee fail to comply with such requisition of the comptroller, the comptroller may report the same to the Court; and the Court, after hearing the explanation, if any, of the trustee, shall make such order in the premises as it thinks just.

Powers of comptroller.

58. The comptroller may at any time require any trustee to answer any inquiry made by him in relation to any bankruptcy in which such trustee is engaged, and may, if he think fit, apply to the Court to examine on oath such trustee or any other person concerning such bankruptcy.

PART III.

Constitution and Powers of Court.

Description of Court.

Court to consist of London Court and County Courts.

59. From and after the commencement of this Act the following provisions shall take effect with respect to the Courts having jurisdiction in bankruptcy, and their officers; that is to say,

If the person sought to be adjudged a bankrupt reside or carry on business within the London Bankruptcy District as hereinafter defined, or be not resident in England, then "the Court" shall mean, for the purposes of this Act, the Court of Bankruptcy in London as constituted by this Act, and hereinafter referred to as the London Bankruptcy Court:

If the person sought to be adjudged a bankrupt, being resident in England, do not reside or carry on business within the London Bankruptcy District, then "the Court" shall, subject

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PART III.

Description of Court.

to the provisions herein-after contained for removing the proceedings, mean the county court of the district in which such person resides or carries on business, herein-after referred to as the local Bankruptcy Court.

Definition of the London Bankruptcy District.

60. The London Bankruptcy District shall, for the purposes of this Act, comprise the following places; that is to say, the city of London and the liberties thereof, and all such parts of the metropolis and other places as are situated within the district of any county court described as a metropolitan county court in the list contained in the second schedule hereto.

Constitution of the London Bankruptcy Court.

61. The London Bankruptcy Court shall from and after the commencement of this Act consist of a judge, to be called the Chief Judge in Bankruptcy, and, subject to the provisions of this Act with respect to the officers of the existing London Bankruptcy Court, of such number of registrars not exceeding two, clerks, ushers, and other subordinate officers, as may be determined by the Chief Judge with the sanction of the Treasury.

The office of Chief Judge in Bankruptcy shall be filled by such one of the puisne judges of Her Majesty's Superior Courts of Common Law at Westminster as may, with his assent, be assigned to hold such office by the Lord Chancellor; the judge so assigned shall hold the office of Chief Judge in Bankruptcy in addition to the office of judge in the court to which he belongs, but he shall not, during such time as he acts as Chief Judge in Bankruptcy, be required to perform any of the duties of judge in the court to which he belongs.

Power of the Crown to appoint new common-law judge if required.

62. Her Majesty may, if an additional judge is required, appoint an additional puisne judge to any one of the Courts of Queen's Bench, the Common Pleas, and the Exchequer; the judge so appointed shall, as to rank, *salary*, *pension*, attendant officers, jurisdiction, and all other privileges and duties of a judge, stand in the same position as the other puisne judges of the Court to which he is attached. Any puisne judge appointed to any of the said Courts in pursuance of or after the passing of this Act shall, when required by the Lord Chancellor, perform the duties of Chief Judge in Bankruptcy.

Appointment of registrars and other officers.

63. Subject to the provisions in this Act with respect to the officers of the existing London Bankruptcy Court, the registrars, clerks, ushers, and other subordinate officers shall be appointed by the Chief Judge for the time being, and may be removed by him and others appointed in their stead if the judge is of opinion that they are negligent, unskilful, or untrustworthy in their performance

of their duties, or ought in his opinion to be removed for any other just cause. A.D. 1869.

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Description of Court.

64. *Subject as aforesaid, there shall be paid, out of moneys provided by Parliament, to the registrars, clerks, ushers, and other subordinate officers such salaries as the Chief Judge with the sanction of the Treasury may determine.*

Salaries of officers.

65. *Subject as aforesaid, the Lord Chancellor may order to be paid to any of the said registrars, clerks, ushers, or other subordinate officers who is disabled by permanent infirmity from the performance of the duties of his office, or has served as an officer of the said London Bankruptcy Court for twenty years and is desirous of resigning, such superannuation allowance, to be paid out of moneys to be provided by Parliament, as the Treasury may award, having regard to any general order for the time being in force regulating the pensions, compensations, and allowances to be made to persons in respect of their having held civil offices in Her Majesty's service.*

Pensions to officers.

66. Subject as aforesaid, the registrars, clerks, ushers, and other subordinate officers of the London Bankruptcy Court shall perform such duties as may from time to time be assigned to them by the Chief Judge with the assent of the Lord Chancellor.

Duties of subordinate officers of court.

67. The London Court of Bankruptcy shall continue to be a court of law and of equity and a principal court of record, and the Chief Judge in Bankruptcy shall have all the powers, jurisdiction, and privileges possessed by any judge of Her Majesty's Superior Courts of Common Law at Westminster, or by any judge of Her Majesty's High Court of Chancery, and the orders of such judge shall be of the same force as if they were judgments in the Superior Courts of Common Law or decrees in the High Court of Chancery. The Chief Judge in Bankruptcy may sit in chambers, and when in chambers shall have the same jurisdiction and exercise the same powers as if sitting in open court.

Jurisdiction of the London Court of Bankruptcy.

68. Every judge of a local Court of Bankruptcy shall, for the purposes of this Act, in addition to his ordinary powers as a county court judge, have all the powers and jurisdiction of a judge of Her Majesty's High Court of Chancery, and the orders of such judge may be enforced accordingly.

Jurisdiction of county court judges.

69. The Chief Judge in Bankruptcy and every judge of a local Court of Bankruptcy may delegate to the registrar or to any other officer of his court such of the powers vested in him by this Act

Powers of Court to delegate authority to registrar.

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Description of Court.

as it may be expedient for the judge to delegate to him, having regard to rules of Court and to any restrictions that may be imposed in respect of such delegation by the Lord Chancellor.

Clause F. Fees to registrars.

70. There shall be allowed to the registrars of every local bankruptcy court such fees by way of remuneration for their services under this Act as may be allowed by the Treasury. The Treasury may at any time require all fees received by the registrars in pursuance of this Act to be paid into the Exchequer, and in lieu of such fees may grant to the registrars such addition of salary as they may think expedient.

Clause G. Judges and officers in bankruptcy to be ineligible to sit in Parliament.

71. No judge, registrar, or officer having jurisdiction in bankruptcy, or attached to any Court having jurisdiction in bankruptcy, shall, during his continuance in office, be capable of being elected or sitting as a member of the House of Commons.

Appeal from Courts.

72. Every Court having jurisdiction in bankruptcy under this Act may review, rescind, or vary any order made by it in pursuance of this Act. Any person aggrieved by any order of a local Bankruptcy Court in respect of a matter of fact or of law made in pursuance of this Act may appeal to the Chief Judge in Bankruptcy, and it shall be lawful for such judge to alter, reverse, or confirm such order as he thinks just. Any order made by the Chief Judge in Bankruptcy, whether in respect of a matter brought before him on appeal or not, shall, if the question be one of fact, be conclusive, but if the question be one of law be subject to reversal, confirmation, or modification by the Court to which he is attached as a common law judge, and also, with the leave of the Court of Appeal, by the House of Lords, but no appeal shall be entertained under this Act except in conformity to such rules of court as may for the time being be in force in relation to such appeal.

General power of Bankruptcy Courts.

73. Subject to the provisions of this Act, every Court having jurisdiction in bankruptcy under this Act shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, arising in any case of bankruptcy coming within the cognizance of such Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case; and no such Court as aforesaid shall be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act; and if in any proceeding in bankruptcy there arises any question of fact which the parties desire to be tried before a jury instead of by the Court itself, or

which the Court thinks ought to be tried by a jury, the Court may direct such trial to be had, and such trial may be had accordingly, in the London Court of Bankruptcy, in the same manner as if it were the trial of an issue in one of the superior Courts of Common Law, and in the County Court in the manner in which jury trials in ordinary cases are by law held in such Court.

Orders and Warrants of Court.

Enforcement of warrant and orders of Courts.

74. Any order made by a Court having jurisdiction in bankruptcy in England under this Act shall be enforced in Scotland and Ireland in the Courts having jurisdiction in bankruptcy in such countries respectively, in the same manner in all respects as if such order had been made by the Courts which are hereby required to enforce the same; and in like manner any order made by the Court in Scotland having jurisdiction in bankruptcy shall be enforced in England and Ireland, and any order made by the Court having jurisdiction in bankruptcy in Ireland shall be enforced in England and Scotland by the Courts respectively having jurisdiction in bankruptcy in the division of the United Kingdom where the orders made require to be enforced, and in the same manner in all respects as if such order had been made by the Court required to enforce the same in a case of bankruptcy within its own jurisdiction.

Clause H. Courts in England to be auxiliary to other Courts, &c.

75. The London Bankruptcy Court, the local Bankruptcy Court, the Courts having jurisdiction in bankruptcy in Scotland and Ireland, and every British Court elsewhere having jurisdiction in bankruptcy or insolvency, and the officers of such Courts respectively, shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy, and an order of the Court seeking aid, together with a request to another of the said Courts, shall be deemed sufficient to enable the latter Court to exercise, in regard to the matters directed by such order, the like jurisdiction, which the Court which made the request, as well as the Court to which the request is made, could exercise in regard to similar matters within their respective jurisdictions.

Examination in Scotland or Ireland.

76. Any Court having jurisdiction in bankruptcy in England under this Act may, if it thinks fit, order that a person named in the order being in Scotland or in Ireland shall be examined there.

Warrants of Bankruptcy Courts.

77. Any warrant of a Court having jurisdiction in bankruptcy in England under this Act may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in Her Majesty's dominions, in the same manner and subject to the same privileges

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in and subject to which a warrant issued by any justice of the peace against a person for an indictable offence against the laws of England, may be executed in such countries respectively in pursuance of the Acts of Parliament in that behalf; and any search warrant issued by a Court having jurisdiction in bankruptcy under this Act for the discovery of any property of a bankrupt may be executed in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law.

Commitment to prison.

78. Where any Court having jurisdiction in bankruptcy under this Act commits any person to prison the commitment may be to such convenient prison as the Court thinks expedient, and if the gaoler of any prison refuses to receive any prisoner so committed he shall be liable for every such refusal to a penalty not exceeding one hundred pounds.

General Rules.

General rules to be made by Court.

79. The Lord Chancellor, with the advice of the chief judge in bankruptcy, may from time to time make, and may from time to time revoke and alter, general rules, in this Act described as rules of Court, for the effectual execution of this Act, and of the objects thereof, and the regulation of the practice and procedure of bankruptcy petitions and the proceedings thereon.

Any general rules made as aforesaid may prescribe regulations as to the service of bankruptcy petitions including provisions for substituted service; as to the valuing of any debts provable in a bankruptcy; as to the valuation of securities held by creditors; as to the imposition of any fees on bankruptcy proceedings by stamps or otherwise; as to the giving or withholding interest or discount on or in respect of debts or dividends; as to the funds out of which costs are to be paid, the order of payment, and the amount and taxation thereof; as to the remuneration by per-centage or otherwise of the trustee, and the security to be given by him; and as to any other matter or thing, whether similar or not to those above enumerated, in respect to which it may be expedient to make rules for carrying into effect the objects of this Act; and any rules so made shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if they were enacted in the body of this Act.

Any rules made in pursuance of the section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting; and if Parliament be not then sitting, within three

weeks after the beginning of the then next session of Parliament, and any rules so made shall be judicially noticed.

Until rules have been made in pursuance of this Act, and so far as such rules do not extend, the principles, practice, and rules on which Courts having jurisdiction in bankruptcy have heretofore acted in dealing with bankruptcy proceedings shall be observed by any Court having jurisdiction in bankruptcy cases under this Act.

PART IV.

Supplemental Provisions.

As to Proceedings.

Supplemental regulations as to proceedings in bankruptcy.

80. The following regulations shall be made with respect to proceedings in bankruptcy; namely:

(1.) Where two or more bankruptcy petitions are presented against the same debtor or against debtors being members of the same partnership, the Court may consolidate the proceedings, or any of them, upon such terms as the Court thinks fit:

(2.) Where proceedings against the debtor are instituted in more Courts than one the London Court of Bankruptcy may, on the application of any creditor, direct the transfer of such proceedings to the London Court of Bankruptcy, or to any local Bankruptcy Court in which any such proceedings may have been instituted:

(3.) Where the petitioner does not proceed with due diligence on his petition the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of a petitioning creditor:

(4.) Where the creditors resolve by a special resolution that it will be more convenient that the proceedings in any local Bankruptcy Court should be transferred to the London Court or to some other local Court, or where the judge of a local Court certifies that in his opinion the bankruptcy would be more advantageously conducted in the London Court or in some other local Court, and the creditors do not by resolution object to the transfer, the petition shall be transferred to and all subsequent proceedings thereon had in the London Court or such other local Court:

(5.) Subject to the provisions of this Act, every Court having original jurisdiction in bankruptcy shall be deemed to be

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the same Court, and to have jurisdiction throughout England; and cases may be transferred from one Court to another in such manner as may be prescribed:

(6.) A corporation may prove a debt, vote, and otherwise act in bankruptcy, by an agent duly authorized under the seal of the corporation:

(7.) A creditor may, in the prescribed manner, by instrument in writing, appoint a person to represent him in all matters relating to any debtor or his affairs in which a creditor is concerned in pursuance of this Act, and such representative shall thereupon, for all the purposes of this Act, stand in the same position as the creditor who appointed him:

(8.) When a debtor who has been adjudicated a bankrupt dies, the Court may order that the proceedings in the matter be continued as if he were alive:

(9.) If it appear to the Court at any time during the continuance of the bankruptcy of a debtor that it is probable that the property of such debtor will not produce a sum exceeding fifty pounds after deducting the costs of realizing such property, the Court shall make an order stating such to be the case, and annulling the order of adjudication and all proceedings that have taken place in the course of the bankruptcy; and such order and proceedings shall be null and void accordingly, without prejudice to any acts which may have been duly done or payments duly made in the course of such bankruptcy, and the property of the debtor who was adjudged a bankrupt shall in such case revert to him upon such terms and subject to such conditions, if any, as the Court may declare by order:

(10.) The Court may, at any time, on proof to its satisfaction that proceedings in bankruptcy ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.

Clause I. Consequences of annulling of adjudication.

81. Whenever any adjudication in bankruptcy is annulled all sales and dispositions of property and payments duly made, and all acts theretofore done, by the trustee or any person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged a bankrupt shall in such case vest in such person as the Court may appoint, or in default of any such appointment revert to the bankrupt for all his estate or interest therein upon such terms and subject to such conditions, if any, as the Court

may declare by order. A copy of the order of the Court annulling the adjudication of a debtor as a bankrupt shall be forthwith published in the London Gazette and advertised locally in the prescribed manner, and the production of a copy of the gazette containing such order shall be conclusive evidence of the fact of the adjudication having been annulled, and of the terms of the order annulling the same.

Formal defects not to invalidate proceedings.

82. No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the Court before which an objection is made to such proceeding is of opinion that substantial injustice has been caused by such defect or irregularity, and that such injustice cannot be remedied by any order of such Court.

As to Trustees and Committee of Inspection.

Regulations as to trustees, &c.

83. The following regulations shall be made with respect to the trustee and committee of inspection:

(1.) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and where more than one are appointed they shall declare whether any act required or authorized to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee," and shall be joint tenants of the property of the bankrupt. The creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee:

(2.) If any vacancy occur in the office of trustee by death, resignation, or otherwise, the creditors in general meeting shall fill up such vacancy, and a general meeting for the purpose of filling up such vacancy may be convened by the continuing trustee, if there be more than one, or by the registrar on the requisition of any creditor:

(3.) If, through any cause whatever, there is no trustee acting during the continuance of a bankruptcy, the registrar of the Court for the time being having jurisdiction in the bankruptcy, or some other person appointed by the Court, shall act as such trustee:

(4.) The Court may, upon cause shown, remove any trustee, and appoint another person to fill his office, and in manner provided by this Act give a certificate declaring him to be a trustee:

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(5.) If a trustee be adjudged bankrupt, he shall cease to be trustee, and the registrar shall, if there be no other trustee, call a meeting of creditors for the appointment of another trustee in his place:

(6.) The property of the bankrupt shall pass from trustee to trustee, including under that term the registrar when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever:

(7.) The trustee of a bankrupt may sue and be sued by the official name of "the trustee of the property of a bankrupt," inserting the name of the bankrupt, and by that name may hold property of every description, make contracts, sue and be sued, enter into any engagements binding upon himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office:

(8.) The trustee acting in his official capacity shall be liable only to the extent of the assets of the bankrupt coming to his hands, and shall not be personally liable for any engagements entered into, or costs or debt incurred by him while acting in his official capacity, but all such engagements, costs, and debts shall be satisfied out of the moneys for the time being received by him in his official capacity:

(9.) The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly:

(10.) All acts and things by this Act authorized or required to be done by or to the registrar may be done within the district of each Court having jurisdiction in bankruptcy by or to the registrar of that Court, or by or to such other person as may be appointed for that purpose by such Court:

(11.) Any member of the committee of inspection may resign his office by notice in writing signed by him, and delivered to the trustee:

(12.) The creditors may by resolution fix the quorum required to be present at a meeting of the committee of inspection. If no such quorum is fixed three shall be a quorum where the number of the committee is more than three, and where

it is not more than three all the members must be present to make a meeting:

(13.) Any member of the committee of inspection may also be removed by a special resolution at any meeting of creditors of which seven days previous notice has been given, stating the object of the meeting:

(14.) On any vacancy occurring in the office of a member of the committee of inspection by removal, death, resignation, or otherwise, the trustee shall convene a meeting of creditors for the purpose of filling up such vacancy:

(15.) The continuing members of the committee of inspection may act, notwithstanding any vacancy in their body:

(16.) No defect or irregularity in the election of a trustee or of a member of the committee of inspection shall vitiate any act bonâ fide done by him; and no act or proceeding of the trustee or of the creditors shall be invalid by reason of any failure of the creditors to elect all or any members of the committee of inspection:

(17.) If a member of the committee of inspection become a bankrupt his office shall thereupon become vacant:

(18.) Where there is no committee of inspection, any act or thing or any direction or consent by this Act authorized or required to be done or given by such committee may be done or given by the Court on the application of the trustee.

Power of Court, on failure of creditors, to appoint trustee.

84. The registrar may adjourn the first meeting of creditors from time to time and from place to place, subject to the directions of the Court; but if, at such first meeting of creditors or at some adjournment thereof, no trustee is appointed by reason of the prescribed quorum not being present, or for any other reason whatever, the Court shall annul the adjudication, unless it deems it expedient for special reasons to carry on the bankruptcy with the aid of the registrar as trustee. Moreover, if at any time during the bankruptcy no new trustee is appointed by the creditors to fill a vacancy in that office, the Court may either carry on the bankruptcy with the aid of the registrar as trustee or annul the order of adjudication, as it thinks just.

As to Power over Bankrupt.

Post letters addressed to bankrupt.

85. The Court, upon the application of the trustee, may from time to time order that, for such time as the Court thinks fit, not exceeding three months from the date of the order of adjudication,

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post letters addressed to the bankrupt at any place or any of the places mentioned in the order, shall be re-directed, sent, or delivered by the postmaster general or the officers acting under him, to the trustee or otherwise as the Court directs, and the same shall be done accordingly.

Arrest of bankrupt under certain circumstances.

86. The Court may, by warrant addressed to any constable or person named in such warrant, cause a debtor to be arrested, and any books, papers, moneys, goods, and chattels in his possession to be seized, and him and them to be safely kept until such time as the Court may order, under the following circumstances:

(1.) If, after a petition of bankruptcy is presented against such debtor, it appear to the Court that there is probable reason for believing that he is about to go abroad or to quit his place of residence with a view of avoiding service of the petition, or of avoiding appearing to the petition, or of avoiding examination in respect of his affairs, or otherwise delaying or embarrassing the proceedings in bankruptcy:

(2.) If, after a petition in bankruptcy has been presented against such debtor, it appear to the Court that there is probable cause for believing that he is about to remove his goods or chattels with a view of preventing or delaying such goods or chattels being taken possession of by the trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods or chattels, or any books, documents, or writings which might be of use to his creditors in the course of his bankruptcy:

(3.) If after the service of the petition on such debtor, or after an adjudication in bankruptcy against him, he remove any goods or chattels in his possession above the value of five pounds, without the leave of the trustee.

As to Property devolving on Trustee.

Proceeds of sale and seizure of goods.

87. Where the goods of any trader have been taken in execution and sold, the sheriff shall retain the proceeds of such sale in his hands for a period of fourteen days, and upon notice being served on him within that period of a bankruptcy petition having been presented against such trader, shall hold the proceeds of such sale, after deducting expenses, on trust to pay the same to the trustee; but if no notice of such petition having been presented be served on him within such period of fourteen days, or if, such notice having been served, the trader against whom the petition has been presented

is not adjudged a bankrupt on such petition, or on any other petition of which the sheriff has notice, the sheriff may deal with the proceeds of such sale in the same manner as he would have done had no notice of the presentation of a bankruptcy petition be served on him.

Sequestration of ecclesiastical benefice.

88. Where a bankrupt is a beneficed clergyman, the trustee may apply for a sequestration of the profits of the benefice, and the certificate of the appointment of the trustee shall be sufficient authority for the granting of sequestration without any writ or other proceeding, and the same shall accordingly be issued as on a writ of levari facias founded on a judgment against the bankrupt, and shall have priority over any other sequestration issued after the commencement of the bankruptcy; but the sequestrator shall allow out of the profits of the benefice to the bankrupt, while he performs the duties of the parish or place, such an annual sum, payable quarterly, as the bishop of the diocese in which the benefice is situate directs; and the bishop may appoint to the bankrupt such or the like stipend as he might by law have appointed to a curate duly licensed to serve the benefice in case the bankrupt had been non-resident.

Appropriation of portion of pay of officers to creditors.

89. Where a bankrupt is or has been an officer of the army or navy, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, or is in the enjoyment of any pension or compensation granted by the Treasury, the trustee during the bankruptcy, and the registrar after the close of the bankruptcy, shall receive for distribution amongst the creditors so much of the bankrupt's pay, half pay, salary, emolument, or pension, not exceeding such sum as will pay a dividend of ten shillings in the pound, as the Court, upon the application of the trustee, thinks just and reasonable, to be paid in such manner and at such times as the Court, with the consent in writing of the chief officer of the department under which the pay, half pay, salary, emolument, pension, or compensation is enjoyed directs.

Appropriation of portion of salary to creditors.

90. Where a bankrupt is in the receipt of a salary other than as aforesaid, the Court upon the application of the trustee shall make such order as it thinks just for the payment of such salary, or of any part thereof, to the trustee during the bankruptcy, and to the registrar if necessary after the close of the bankruptcy, to be applied by him in such manner as the Court may direct.

Avoidance of voluntary settlements.

91. Any settlement of property not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, shall, if the settlor become bankrupt within two years after the date of such settlement, be void as against the trustee of

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Supplemental Provisions.

the bankrupt appointed under this Act, unless the parties claiming under such settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in such settlement.

"Settlement" shall for the purposes of this section include any conveyance or transfer of property.

Avoidance of fraudulent preferences.

92. Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own moneys in favour of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors, shall, if the person making, taking, paying, or suffering the same become bankrupt within three months after the date of making, taking, paying, or suffering the same, be deemed fraudulent and void as against the trustee of the bankrupt appointed under this Act; but this section shall not affect the rights of a purchaser, payee, or incumbrancer in good faith and for valuable consideration.

Payment of money by agents to trustee.

93. Any treasurer or other officer, or any banker, attorney, or agent of a bankrupt, shall pay and deliver to the trustee all moneys and securities in his possession or power, as such officer or agent, if he be not by law entitled to retain as against the bankrupt or the trustee; if he do not he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the trustee.

CLAUSE K. Protection of certain transactions with bankrupt.

94. Nothing in this Act contained shall render invalid,—

(1.) Any payment made in good faith and for value received to any bankrupt before the date of the order of adjudication by a person not having at the time of such payment notice of any act of bankruptcy comitted by the bankrupt, and available against him for adjudication:

(2.) Any payment or delivery of money or goods belonging to a bankrupt, made to such bankrupt by a depositee of such money or goods before the date of the order of adjudication, who had not at the time of such payment or delivery notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:

(3.) Any contract or dealing with any bankrupt, made in good faith and for valuable consideration, before the date of the order of adjudication, by a person not having, at the time of making such contract or dealing, notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.

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Clause L. Protection of certain transactions entered into by or in relation to the property of the bankrupt.

95. Subject, and without prejudice to the provisions of this Act relating to the proceeds of the sale and seizure of goods of a trader, and to the provisions of this Act avoiding certain settlements and avoiding, on the ground of their constituting fraudulent preferences, certain conveyances, charges, payments, and judicial proceedings, the following transactions by and in relation to the property of a bankrupt shall be valid, notwithstanding any prior act of bankruptcy,—

(1.) Any disposition or contract with respect to the disposition of property by conveyance, transfer, charge, delivery of goods, payment of money, or otherwise howsoever made by any bankrupt in good faith and for valuable consideration, before the date of the order of adjudication, with any person not having at the time of the making of such disposition of property notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:

(2.) Any execution or attachment against the land of the bankrupt, executed in good faith by seizure before the date of the order of adjudication, if the person on whose account such execution or attachment was issued had not at the time of the same being so executed by seizure notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:

(3.) Any execution or attachment against the goods of any bankrupt, executed in good faith by seizure and sale before the date of the order of adjudication, if the person on whose account such execution or attachment was issued had not at the time of the same being executed by seizure and sale notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.

As to Discovery of Bankrupt's Property.

Power of Court to summon persons before it suspected of having property of bankrupt.

96. The Court may, on the application of the trustee, at any time after an order of adjudication has been made against a bankrupt, summon before it the bankrupt or his wife, or any person whatever known or suspected to have in his possession any of the estate or effects belonging to the bankrupt, or supposed to be indebted to the bankrupt, or any person whom the Court may deem capable of giving information respecting the bankrupt, his trade dealings or property, and the Court may require any such person to produce

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his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action or suit, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

Evidence.

Evidence of proceedings at meeting of creditors.

108. The registrar, or any other person presiding at a meeting of creditors under this Act, shall cause minutes to be kept and duly entered in a book of all resolutions and proceedings of such meeting, and any such minute as aforesaid, if purporting to be signed by the president of the meeting at which such resolutions were passed or proceedings had, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every general meeting of the creditors in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had.

Evidence of proceedings in bankruptcy.

109. Any petition or copy of a petition in bankruptcy, any order, or copy of an order made by any Court having jurisdiction in bankruptcy, any certificate or copy of a certificate made by any Court having jurisdiction in bankruptcy, any deed or copy of a deed of arrangement in bankruptcy, and any other instrument or copy of an instrument, affidavit, or document made or used in the course of any bankruptcy proceedings, or other proceedings had under this Act, may, if any such instrument as aforesaid or copy of an instrument appears to be sealed with the seal of any Court having jurisdiction, or purports to be signed by any judge having jurisdiction in bankruptcy under this Act, be receivable in evidence in all legal proceedings whatever.

Death of witness.

110. In case of the death of the bankrupt or his wife, or of a witness whose evidence has been received by any Court in any proceeding under this Act, his deposition, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Bankruptcy Courts to have seals.

111. Every Court having jurisdiction in bankruptcy under this Act shall have a seal describing such Court in such manner as may be directed by order of the Lord Chancellor, and judicial notice shall be taken of such seal, and of the signature of the judge or registrar of any such Court, in all legal proceedings.

Penalty on false statements.

112. If any person, on the occasion of a bankruptcy, wilfully makes, by word of mouth or in writing, any false statement which

is not punishable as perjury, and the maker of such false statement gains any advantage, or any person sustains any injury thereby, the person making such false statement shall be guilty of a misdemeanor, and shall be liable to imprisonment for a period not exceeding one year, with or without hard labour.

Miscellaneous.

Expenses of registrar attending meetings, &c.

113. Where a registrar under the authority of this Act attends at any place for the purpose of presiding at a meeting of creditors, or of receiving proofs, or of otherwise acting under this Act, his travelling and incidental expenses incurred in so doing, and those of any clerk or officer attending him, shall, after being settled by the Court, be paid out of the bankrupt's property, if sufficient, and otherwise shall be deemed part of the expenses of the Court of Bankruptcy.

Power of assignee to sue.

114. Any person to whom anything in action belonging to the bankrupt is assigned in pursuance of this Act may bring or defend any action or suit relating to such thing in action in his own name, or in the name of the bankrupt.

Exemption of deeds, &c. from stamp duty.

115. Every deed, conveyance, assignment, surrender, admission, or other assurance relating solely to freehold, leasehold, copyhold, or customary property, or to any mortgage, charge, or other incumbrance on, or any estate, right, or interest in any real or personal property which is part of the estate of any bankrupt, and which after the execution of such deed, conveyance, assignment, surrender, admission, or other assurance, either at law or in equity, is or remains the estate of the bankrupt or of the trustee under the bankruptcy, and every power of attorney, proxy paper, writ, order, certificate, affidavit, bond, or other instrument or writing relating solely to the property of any bankrupt, or to any proceeding under any bankruptcy, shall be exempt from stamp duty (except in respect of fees under this Act), and from every other duty.

Computation of time.

116. Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of such limited time the same shall be taken as exclusive of the day of such date or of the happening of such event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of such limited time according to such computation, unless such last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a day appointed for public fast, humilia-

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tion, or thanksgiving, or a day on which, in pursuance of a notification by the Lord Chancellor under this Act, the Court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

Where by this Act any act or proceeding is directed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, such act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

Returns by bankruptcy officer.

117. The registrars and other officers of the courts acting in bankruptcy shall make to the comptroller in bankruptcy such returns of the business of their respective courts and offices, at such times and in such manner and form as may be prescribed by the rules of Court, and from such returns the comptroller shall, in manner prescribed by the rules of court, frame books (which shall be, under the regulations of the rules of Court, open for public information and searches), and also a general annual report to the Lord Chancellor, judicial and financial, respecting all matters within this Act, which report shall be laid before both Houses of Parliament.

Forfeiture of dividends after five years non-claim.

118. Where any dividends remain unclaimed for five years then and in every such case the same shall be deemed forfeited to the Crown, and shall be disposed of as the Commissioners of Her Majesty's Treasury direct; provided that at any time after such forfeiture the Lord Chancellor may, if he thinks fit, by reason of the disability or absence beyond seas of the person entitled to the sum forfeited, or for any other reason appearing to him sufficient, direct that the forfeiture be remitted, and the same shall be remitted accordingly, and the sum forfeited shall be repaid out of money provided by Parliament, and shall be distributed as it would have been if there had been no forfeiture.

Removal of bankrupt from trusteeship.

119. Where a bankrupt is a trustee within the Trustee Act, 1850, section thirty-two of that Act shall have effect so as to authorize the Court of Chancery or a County Court (according to its jurisdiction under the County Courts Act, 1865,) to appoint a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears to the Court expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

120. Where in any Act of Parliament, instrument, or proceeding passed, executed, or taken before the commencement of this Act mention is made of a commission of bankruptcy or fiat in bankruptcy, the same shall be construed, with reference to the proceedings under a petition for adjudication of bankruptcy, as if a commission of or a fiat in bankruptcy had been actually issued at the time of the presentation of such petition.

Construction of Acts mentioning commission of bankruptcy, &c.

PART V.

Persons having Privilege of Parliament.

121. If a person having privilege of Parliament commits an act of bankruptcy he may be dealt with under this Act in like manner as if he had not such privilege.

Privilege of Parliament not to prevent adjudication in bankruptcy.

122. If a person, being a member of the Commons House of Parliament, is adjudged bankrupt, he shall be and remain during one year from the date of the order of adjudication incapable of sitting and voting in that House, unless within that time either the order is annulled or the creditors who prove debts under the bankruptcy are fully paid or satisfied.

Vacating of seat in House of Commons.

Provided that such debts (if any) as are disputed by the bankrupt shall be considered, for the purpose of this section, as paid or satisfied if within the time aforesaid he enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning such debts, together with any costs to be given in such proceedings.

123. If within the time aforesaid the order of adjudication is not annulled, and the debts of the bankrupt are not fully paid or satisfied as aforesaid, then the Court shall, immediately after the expiration of that time certify the same to the Speaker of the House of Commons, and thereupon the seat of such member shall be vacant.

Certificate of bankruptcy to be given by Court to Speaker.

124. Where the seat of a member so becomes vacant the Speaker during a recess of the House, whether by prorogation or by adjournment, shall forthwith, after receiving such certificate, cause notice thereof to be published in the London Gazette; and after the expiration of six days after such publication shall, (unless the House has met before that day, or will meet on the day of the issue), issue his warrant to the clerk of the Crown to make out a new writ for electing another member in the room of the member whose seat has so become vacant.

Speaker to issue new writ.

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Part V.

Privilege of Parliament.

Provisions of 24 Geo. 3. sess. 2. c. 26. extended to case of bankruptcy.

125. The powers of the Act of the twenty-fourth year of the reign of King George the Third, chapter twenty-six, "to repeal so "much of two Acts made in the tenth and fifteenth years of the "reign of His present Majesty as authorizes the Speaker of the "House of Commons to issue his warrant to the clerk of the Crown "for making out writs for the election of members to serve in "Parliament in the manner therein mentioned; and for substitut-"ing other provisions for the like purposes," so far as such powers enable the Speaker to nominate and appoint other persons, being members of the House of Commons, to issue warrants for the making out of new writs during the vacancy of the office of Speaker, or during his absence out of the realm, shall extend to enable him to make the like nomination and appointment for issuing warrants, under the like circumstances and conditions, for the election of a member in the room of any bankrupt member whose seat becomes vacant under this Act.

PART VI.

Liquidation by Arrangement.

Regulations.

Part VI.

Liquidation by Arrangement.

Regulations as to liquidation by arrangement.

126. The following regulations shall be made with respect to the liquidation by arrangement of the affairs of the debtor:

(1.) The affairs of a debtor may be liquidated by arrangement, and his property distributed amongst his creditors without an order of adjudication in bankruptcy, on the prescribed proof being made to the registrar that such liquidation has been assented to by a majority in number and three fourths in value of all his creditors, and that a trustee has been appointed with or without a committee of inspection:

(2.) The assent of the creditors may be given either by a vote at a general meeting, or in writing, or partly in one way and partly in the other:

(3.) The creditors entitled to give such assent shall be such creditors only as would be qualified to vote under the Act at a first general meeting of creditors if the debtor were adjudged a bankrupt:

(4.) The certificate of the registrar in respect of the appointment of any trustee in the case of a liquidation by arrangement shall be of the same effect as a certificate of the Court to the like effect in the case of a bankruptcy:

(5.) All such property of the debtor as would, if he were made bankrupt, be divisible amongst his creditors shall, from and after the date of the appointment of a trustee, vest in such trustee under a liquidation by arrangement, and be divisible amongst the creditors, and all such settlements, conveyances, transfers, charges, payments, obligations and proceedings as would be void against the trustee in the case of a bankruptcy shall be void against the trustee in the case of liquidation by arrangement.

(6.) The date of the appointment of the trustee by the creditors shall be deemed to be the commencement of the liquidation:

(7.) The trustee under a liquidation shall have the same powers, and perform the same duties, as a trustee under a bankruptcy, and the property of the creditor be distributed in the same manner as in a bankruptcy, and with the modification herein-after mentioned all the provisions of this Act shall, so far as the same are applicable, apply to the case of a liquidation by arrangement in the same manner as if the word "bankrupt" included a debtor whose affairs are under liquidation, and the word "bankruptcy" included liquidation by arrangement; and in construing such provisions the appointment of a trustee under a liquidation shall according to circumstances be deemed to be equivalent to and a substitute for the presentation of a petition in bankruptcy, or the service of such petition or an order of adjudication in bankruptcy.

(8.) The creditors at their first or any general meeting may prescribe the bank into which the trustee is to pay any monies received by him, and the sum which he may retain in his hands:

(9.) The provisions of this Act with respect to the close of the bankruptcy, discharge of a bankrupt, to the release of the trustee, and to the audit of accounts by the comptroller shall not apply in the case of a debtor whose affairs are under liquidation by arrangement; but the close of the liquidation may be fixed, and the discharge of the debtor and the release of the trustee may be granted by a special resolution of the creditors in general meeting, and the accounts may be audited in pursuance of such resolution, at such time and in such manner and upon such terms and conditions as the creditors think fit:

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Part VI.

Liquidation by Arrangement.

(10.) The trustee shall report to the registrar the discharge of the debtor, and a certificate of such discharge given by the registrar shall have the same effect as an order of discharge given to a bankrupt under this Act:

(11.) Rules of court may be made in relation to proceedings on the occasion of liquidation by arrangement in the same manner and to the same extent and of the same authority as in respect of proceedings in bankruptcy:

(12.) If it appear to the Court on satisfactory evidence that the liquidation by arrangement cannot, in consequence of legal difficulties, or of there being no trustee for the time being, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, the Court may adjudge the debtor a bankrupt, and proceedings may be had accordingly:

(13.) Where no committee of inspection is appointed the trustee may act on his own discretion in cases where he would otherwise have been bound to refer to such committee.

PART VII.

Part VII.

Temporary Provisions.

Temporary Provisions.

London Bankruptcy Court.

Commissioners of London Bankruptcy Court to cease to hold offices.

127. From and after the commencement of this Act the present commissioners of the London Bankruptcy Court shall cease to hold their offices.

Clause M. Transfer of officers of existing Court to new Court of Bankruptcy.

128. The chief registrar, registrars, accountant in bankruptcy, taxing master, official assignees, messengers, and all other officers holding offices in the existing London Bankruptcy Court herein called the Old London Bankruptcy at the commencement of this Act, shall, unless the Lord Chancellor otherwise directs, be attached to the London Bankruptcy Court as constituted under this Act, herein called the New London Bankruptcy Court. The officers so attached shall have the same relative rank, hold their offices by the same tenure and upon the same terms and conditions, and receive the same salaries as heretofore. The Lord Chancellor may by order make provision for winding up such portion of the business pending in the said old Bankruptcy Court as cannot conveniently be transferred to the new Bankruptcy Court, and for transferring to such last-mentioned Court any business capable of being conveniently transferred, and every officer attached to such last-mentioned Court shall conform to any order so made by the Lord Chancellor. The Lord Chan-

cellor may by order distribute the business to be performed in the said new Bankruptcy Court amongst the several officers attached thereto in such manner as he may think just, and such officers shall perform such duties in relation to such business as may be directed by the Lord Chancellor, with this qualification that the duties required to be performed by them shall be the same or duties analogous to those which they have hitherto performed in the old Bankruptcy Court. The Lord Chancellor may at any time by order release from the performance of any duties in the new Bankruptcy Court any officer of the old Bankruptcy Court whose services he may deem unnecessary, and the office held by such person shall be deemed to be abolished unless it be an office required to be continued in pursuance of the provisions of this Act relating to the constitution of the new Bankruptcy Court. Any person so released shall, whether his office be altogether abolished or not, be entitled to compensation in the same manner in all respects as if his office had been abolished.

Country District Courts of Bankruptcy.

Abolition of Country District Courts of Bankruptcy.

129. From and after the commencement of this Act the Country District Courts of Bankruptcy shall be abolished, and the commissioners, registrars, official assignees, messengers, ushers, clerks, and officers of the said Courts respectively shall cease to hold their offices.

Such part of the business pending in any Country District Court of Bankruptcy as the Lord Chancellor thinks fit shall be disposed of by the registrar of that Court, (who shall for that purpose continue to have and discharge all his powers and authorities, rights and duties,) and the residue of that business shall be transferred to the London Bankruptcy Court, or to such County Court or County Courts, as the Lord Chancellor, by order before or after its abolition, thinks fit to direct; but, subject as aforesaid, the office of any registrar in such Country District Court shall be abolished.

All books, papers, documents, and money in the custody or control of any such commissioners, registrars, official assignees, messengers, ushers, clerks, and officers, as such, shall be transferred to such Courts or persons as the Lord Chancellor may direct. The Lord Chancellor shall also by order declare the person or persons in whom any vested in any official assignee or other officer as such of any Country District Court hereby abolished is to vest, and such property shall vest accordingly.

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PART VII.

Temporary Provisions.

Compensation to Holders of abolished Offices.

Compensation to holders of abolished offices.

130. Where any commissioner, registrar, or any other person whose office is abolished by or under this Act, on the commencement of this Act or on any other event, held his office during good behaviour, or during good behaviour subject only to removal by the Lord Chancellor, by order, for some sufficient reason to be stated in such order, such officer shall, from and after such abolition, receive, out of moneys to be provided by Parliament, an annuity during his life equal to the amount which he received by way of salary during his continuance in office.

Compensation to clerks.

131. The Commissioners of Her Majesty's Treasury may, on the petition of any person whose office is abolished by or under this Act, on the commencement of this Act or on any other event, and whose compensation in respect of the abolition of his office is not otherwise provided for by this Act, inquire whether any, and, if any, what compensation ought to be made to the petitioner, regard being had to the conditions on which his appointment was made, the nature of his employment, and the duration of his service; and if they think that his claim to compensation is established, may award to him, out of moneys to be provided by Parliament, such compensation, by annuity or otherwise, as under the circumstances of the case they think just and reasonable.

Acceptance of public employment by annuitants.

132. If any person to whom a compensation annuity is granted under this Act accepts any public employment, he shall, during the continuance of that employment, receive only so much (if any) of that annuity as, with the remuneration of that employment, will amount to a sum not exceeding the salary or emoluments in respect of the loss whereof the annuity was awarded, and if the remuneration of that employment is equal to or greater than such salary or emoluments the annuity shall be suspended so long as he receives that remuneration.

SCHEDULES.

SCHEDULE I.

Description of Traders.

Alum makers, apothecaries, auctioneers, bankers, bleachers, brokers, brickmakers, builders, calenderers, carpenters, carriers, cattle or sheep salesmen, coach proprietors, cowkeepers, dyers, fullers, keepers of inns, taverns, hotels, or coffee houses, lime-burners, livery stable keepers, market gardeners, millers, packers, printers, sharebrokers, shipowners, shipwrights, stockbrokers, stock-jobbers, victuallers, warehousemen, wharfingers, persons using the trade or profession of a scrivener, receiving other men's moneys or estates into their trust or custody, persons insuring ships or their freight or other matters against perils of the sea, persons using the trade of merchandise by way of bargaining, exchange, bartering, commission, consignment, or otherwise, in gross or by retail, and persons who, either for themselves or as agents or factors for others, seek their living by buying and selling or buying and letting for hire goods or commodities, or by the workmanship or the conversion of goods or commodities: but a farmer, grazier, common labourer, workman for hire, or receiver general of taxes shall not, nor shall a member of any partnership, association, or company which cannot be adjudged bankrupt under this Act, be deemed as such a trader for the purposes of this Act.

SCHEDULE II.

List of Metropolitan County Courts.

The Bloomsbury County Court of Middlesex.
The Bow County Court of Middlesex.
The Brompton County Court of Middlesex.
The Clerkenwell County Court of Middlesex.
The Lambeth County Court of Surrey.
The Marylebone County Court of Middlesex.
The Shoreditch County Court of Middlesex.
The Southwark County Court of Surrey.
The Westminster County Court of Middlesex.
The Whitechapel County Court of Middlesex.

Bankruptcy.

A

BILL

[AS AMENDED IN COMMITTEE]

To consolidate and amend the Law of Bankruptcy.

(*Prepared and brought in by Mr. Attorney General and Mr. Solicitor General.*)

Ordered, by The House of Commons, *to be Printed*, 26 *April* 1869.

[Bill 97.]

Under 7 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

TO

Consolidate and amend the Law of Bankruptcy. A.D. 1869.

Preliminary.

WHEREAS it is expedient to consolidate and amend the law relating to Bankruptcy:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as "The Bankruptcy Act, 1869." Short title.

2. This Act shall not, except in so far as is expressly provided, apply to Scotland or Ireland. Application of Act.

3. This Act shall not come into operation until the first day of January one thousand eight hundred and seventy, which date is herein-after referred to as the commencement of this Act. Commencement of Act.

4. In this Act, if not inconsistent with the context, the following terms have the meanings herein-after respectively assigned to them, that is to say:— Interpretation of certain terms in the Act.

"The Court" shall mean the court having jurisdiction in bankruptcy as by this Act provided: "Court:"

"The registrar" shall mean the registrar of "the Court" as above defined: "Registrar:"

"Prescribed" shall mean prescribed by rules of Court to be made as in this Act provided: "Prescribed:"

"Property" shall mean and include money, goods, things in action, land, and every description of property, whether real or personal; also, obligations, easements, and every description of estate, interest, and profit, present or future, vested or contingent, arising out of or incident to property as above defined: "Property:"

"Debt provable in bankruptcy," shall include any debt or liability by this Act made provable in bankruptcy: "Debt."

"Person" shall include a body corporate. "Person."

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Exclusion of companies and large partnerships.

5. A partnership, association, or company, corporate, or registered under the "Joint Stock Companies Act," shall not be adjudged bankrupt under this Act.

PART I.

Part I.

Adjudication.

Adjudication and Vesting of Property.

Adjudication.

Petition for adjudication in bankruptcy.

6. A single creditor, or two or more creditors if the debt due to such single creditor, or the aggregate amount of debts due to such several creditors, from any debtor, amount to a sum of not less than fifty pounds, may present a petition to the Court, praying that the debtor be adjudged a bankrupt, and alleging as the ground for such adjudication any one or more of the following acts or defaults, herein-after included under the expression "acts of bankruptcy:"

(1.) That the debtor has, in England or elsewhere, made a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors:

(2.) That the debtor has, in England or elsewhere, made a fraudulent conveyance, gift, delivery, or transfer of his property or of any part thereof:

(3.) That the debtor has, with intent to defeat or delay his creditors, done any of the following things, namely, departed out of England, or being out of England remained out of England, or departed from his dwelling house, or otherwise absented himself; or begun to keep his house; or suffered himself to be outlawed:

(4.) That execution issued against the debtor on any legal process for the purpose of obtaining payment of not less than fifty pounds has in the case of a trader been levied by seizure and sale of his goods, or has in the case of a person, whether a trader or not, been returned unsatisfied in whole or in part:

(5.) That the creditor presenting the petition has served in the prescribed manner on the debtor a demand under the hand of the creditor requiring the debtor to pay a sum due, of an amount of not less than fifty pounds, and stating that in the event of non-compliance with the demand a petition will be presented against him praying that he may be adjudicated a bankrupt, and the debtor being a trader has for the space of seven days, or not being a trader has for the space of three weeks, succeeding the service of such demand, neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor:

But no person shall be adjudged a bankrupt on any of the above grounds unless the act of bankruptcy on which the adjudication is grounded has occurred within six months before the presentation of the petition for adjudication; moreover, the debt of the petitioning creditor must be a liquidated sum, and must not be a secured debt, unless the petitioner state in his petition that he will be ready to give up such security for the benefit of the creditors in the event of the debtor being adjudicated a bankrupt.

The expression "a trader" shall, for the purposes of this Act, mean the several persons in that behalf mentioned in the first schedule to this Act annexed.

Proceedings on petition.

7. A petition praying that a debtor may be adjudged a bankrupt, in this Act referred to as a bankruptcy petition, shall be served in the prescribed manner. At the hearing the Court shall require proof of the debt of the petitioning creditor, and of the trading, if necessary, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with such proof, shall adjudge the respondent to be bankrupt. The Court may adjourn the petition, either conditionally or unconditionally, for the procurement of further evidence, or for any other just cause, or may dismiss the petition, with or without costs, as the Court thinks just.

Proceedings if debt of petitioning creditor is contested.

8. Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such amount as would justify the petitioner in presenting a bankruptcy petition against him the Court, upon such security (if any) being given as the Court may require, for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing such debt, may stay all proceedings on the petition for such time as may be required for trial of the question relating to such debt, before the Court itself, if such Court be the London Bankruptcy Court, or if a County Court, before some competent tribunal.

Where proceedings are stayed the Court may, if by reason of the delay caused by such stay of proceedings or for any other cause it thinks just, forthwith adjudge the debtor a bankrupt on the petition of some other creditor, and shall thereupon dismiss, upon such terms as it thinks just, the petition proceedings in which have been stayed as aforesaid.

Advertisement of order of adjudication.

9. A copy of an order of the Court adjudging the debtor to be bankrupt shall forthwith be published in the London Gazette, and be advertised locally in such manner (if any) as may be pre-

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Appointment of Trustee.

scribed, and the date of such order shall be the date of the adjudication for the purposes of this Act, and the production of a copy of the gazette containing such order as aforesaid shall be conclusive evidence in all legal proceedings of the debtor having been adjudged a bankrupt, and of the date of the adjudication.

Definition of commencement of bankruptcy.

10. The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the act of bankruptcy being completed on which the order is made adjudging him to be bankrupt; or if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to and to commence at the time of the first of the acts of bankruptcy that may, in the course of the bankruptcy proceedings, be proved to have been committed by the bankrupt within twelve months next preceding the order of adjudication.

Creditors bound by bankruptcy proceedings.

11. Where a debtor has been adjudicated a bankrupt, no creditor to whom the bankrupt is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the bankrupt in respect of such debt except in manner directed by this Act. But this section shall not affect the power of any creditor holding a security upon the property of the bankrupt to realize or otherwise deal with such security in the same manner as he would have been entitled to realize or deal with the same if this section had not been passed.

Power of Court, after presentation of petition, to restrain suits, &c. and appoint receiver.

12. The Court may, at any time after the presentation of a bankruptcy petition against the debtor, restrain further proceedings in any action, suit, execution, or other legal process against the debtor, upon such terms as the Court may think just. The Court may also, at any time after the presentation of such petition, appoint a receiver of the property of the debtor against whom the petition is presented, or of any part of such property, and may, on the application of any creditor, direct immediate possession to be taken of such property, or any part thereof.

Appointment of Trustee.

Meeting of creditors for appointment of persons to administer bankrupt's property.

13. When an order has been made adjudging a debtor bankrupt, herein-after referred to as an order of adjudication, the property of the bankrupt shall become divisible amongst his creditors in proportion to the debts proved by them in the bankruptcy; and for the purpose of effecting such division the Court shall summon a general meeting of his creditors, and the creditors assembled at such meeting shall and may do as follows:

1. They shall, by resolution, appoint some fit person, whether a creditor or not, to fill the office of trustee of the property of

the bankrupt, at such remuneration as they may determine, if any; or they may resolve to leave his appointment to the inspectors:

2. They shall, by resolution, declare the security to be given by the person so appointed before he enters on the office of trustee:

3. They shall, by resolution, appoint some other fit persons, not exceeding five in number, and being creditors qualified to vote at such first meeting of creditors as is in this Act, mentioned, to form a committee of inspection for the purpose of superintending the administration by the trustee of the bankrupt's property:

4. They may, by resolution, give directions as to the manner in which the property is to be administered by the trustee, and it shall be the duty of the trustee to conform to such directions, unless the Court for some just cause otherwise orders.

Descriptions of bankrupt's property divisible amongst creditors.

14. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars:

(1.) Property held by the bankrupt on trust for any other person:

(2.) Such rights of action as would not pass to the executors or administrators of the bankrupt if he were dead:

(3.) The tools (if any) of his trade, and the necessary wearing apparel of himself, his wife and children, to a value inclusive of tools and apparel not exceeding twenty pounds in the whole:

But it shall comprise the following particulars:

(4.) All such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him during its continuance:

(5.) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or during its continuance, except the right of nomination to a vacant ecclesiastical benefice:

(6.) All goods and chattels being, at the commencement of the bankruptcy, in the possession, order, or disposition of the bankrupt, being a trader, by the consent and permission of the true owner, of which goods and chattels the bankrupt is reputed owner, or of which he has taken upon himself the sale or disposition as owner; provided that things in action,

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other than debts due to him in the course of his trade or business, shall not be deemed goods and chattels within the meaning of this clause.

Regulations as to first meeting of creditors.

15. The general meeting of creditors to be summoned as aforesaid by the Court, and in this Act referred to as the first meeting of creditors, shall be held in the prescribed manner and subject to the prescribed regulations as to the quorum, adjournment of meeting, and all other matters relating to the conduct of the meeting or the proceedings thereat.

Provided that,—

1. The meeting shall be presided over by the registrar, or, in the event of his being unable to attend through illness or any unavoidable cause, by such chairman as the meeting may elect:
2. A person shall not be entitled to vote as a creditor unless previously thereto he has in the prescribed manner proved a debt provable under the bankruptcy to be due to him:
3. A creditor shall not vote at the said meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained:
4. A secured creditor shall, for the purpose of voting, be deemed to be a creditor only in respect of the balance (if any) due to him after deducting the value of his security; and the amount of such balance shall, until the security be realized, be determined in the prescribed manner. He may, however, at or previously to the meeting of creditors, give up the security to the trustee, and thereupon he shall rank as a creditor in respect of the whole sum due to him:
5. A "secured creditor" shall in this Act mean any creditor holding any mortgage, charge, or lien on the bankrupt's estate as security for a debt due to him:
6. Votes may be given either personally or by proxy:
7. An ordinary resolution shall be decided by a majority in value of the creditors present personally or by proxy at the meeting and voting on such resolution:
8. A special resolution shall be decided by a majority in number, and three fourths in value, of the creditors present personally or by proxy at the meeting and voting on such resolution.

Devolution of property on trustee.

16. Until a trustee is appointed by the creditors the registrar shall be the trustee for the purposes of this Act, and immediately upon the order of adjudication being made the property of the bankrupt shall vest in the registrar. On the appointment of a trustee by he creditors the property shall forthwith pass to and vest in the trustee so appointed.

The expression "trustee," when used in this Act, shall include the person for the time being filling the office of trustee, whether he be the registrar or not; but when the registrar holds the office of trustee he shall, unless the Court otherwise orders, in the administration of the property of the bankrupt, apply to the Court for directions as to the mode of administering such property, and shall not take possession thereof unless directed by the Court.

Evidence of appointment of trustee.

17. The appointment of a trustee by the creditors shall be reported to the Court, and the Court, upon being satisfied that the requisite security has been entered into by him, shall give a certificate declaring him to be trustee of the bankruptcy named in the certificate, and such certificate shall be conclusive evidence of the appointment of the trustee, and such appointment shall date from the date of the certificate. When the registrar holds the office of trustee, or when the trustee is changed, a like certificate of the Court may be made declaring the person therein named to be trustee, and such certificate shall be conclusive evidence of the person therein named being trustee.

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Administration of Property.

General Provisions affecting Administration of Property.

Conduct of bankrupt.

18. The bankrupt shall, to the utmost of his power, aid in the realization of his property, and the distribution of the proceeds amongst his creditors. He shall produce a statement of his affairs to the first meeting of creditors, and shall be publicly examined thereon on a day to be named by the Court, and subject to such adjourned public examination as the Court may direct. He shall give such inventory of his property, such list of his creditors and of their debts, submit to such examination in respect of his property or his creditors, attend such meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by rules of Court, or be directed by the Court by any special order or orders made in reference to any particular bankruptcy, or made on the occasion of any special application by the trustee or any creditor.

If the bankrupt fail to perform the duties imposed on him by this section, or if he fail to deliver up possession to the trustee of any part of his property, which is divisible amongst his creditors

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under this Act, and which may for the time being be in the possession or under the control of such bankrupt, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

Conduct of trustee, and appeal to Court against trustee.

19. The trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by the creditors at any general meeting, or by the committee of inspection, and any directions given by the creditors at any general meeting shall be deemed to override any directions given by the committee of inspection; the trustee shall call a meeting of the committeee of inspection once every three months, when they shall audit his accounts, and determine whether any or what dividend is to be paid; he may also call special meetings of said committee as he thinks necessary.

Subject to the provisions of this Act, and to such directions as aforesaid, the trustee shall exercise his own discretion in the management of the estate, and its distribution amongst the creditors. The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes; he may also apply to the Court, in manner prescribed, for directions in relation to any particular matter arising under the bankruptcy.

The bankrupt, or any creditor, debtor, or other person aggrieved by any act of the trustee, may apply to the Court, and the Court may confirm, reverse, or modify the act complained of, and make such order in the premises as it thinks just. The Court may from time to time, during the continuance of a bankruptcy, summon general meetings of the creditors for the purpose of ascertaining their wishes, and may, if the Court thinks fit, direct the registrar to preside at such meetings.

The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position in all respects as if he were a receiver of such property appointed by the Court of Chancery, and the Court may, on his application, enforce such acquisition or retention of property accordingly.

Regulations as to general meetings of creditors subsequent to first meeting.

20. The provisions of this Act with respect to the first general meeting of creditors shall apply to any subsequent general meeting of creditors in a bankruptcy, with this exception, that subsequent meetings of creditors may be summoned by the trustee, or by a member of the committee of inspection, and that such meetings may, unless otherwise directed by the Court in the case of meetings sum-

moned by the Court, be presided over by any person chosen by the creditors assembled at such meeting, and that any creditor whose debt has been proved, or the value of whose debt has been ascertained at or subsequently to such first meeting, shall be allowed to be present and to vote thereat.

Dealings with Bankrupt's Property.

Possession of property by trustee.

21. Where any portion of the property of the bankrupt consists of stock, shares in ships, shares, or any other property transferable in the books of any company, office, or person, the right to transfer such property shall be absolutely vested in the trustee to the same extent as the bankrupt might have exercised the same if he had not become bankrupt. Where any portion of such estate consists of copyhold or customary property, or any like property passing by surrender and admittance or in any similar manner, the trustee shall not be compellable to be admitted to such property, but may deal with the same in the same manner as if such property had been capable of being and had been duly surrendered or otherwise conveyed to such uses as the trustee may appoint; and any appointee of the trustee shall be admitted or otherwise invested with the property accordingly.

Where any portion of the property of the bankrupt consists of things in action, any action, suit, or other proceeding for the recovery of such things instituted by the trustee may be so instituted either in his official name as in this Act provided, or in the name of the bankrupt; and if he institute the same in his official name, such things shall, for the purpose of such action, suit, or other proceeding, be deemed to be assignable in law, and to have been duly assigned to the trustee in his official capacity.

The trustee shall, as soon as may be after his appointment, take possession of the deeds, books, and documents of the bankrupt, and all other property capable of manual delivery. The trustee shall keep in such manner as rules of Court shall direct, proper books, in which he shall from time to time make or cause to be made entries or minutes of proceedings at meetings, and of such other matters as rules of Court shall direct, and any person stating himself in writing to be a creditor of the bankrupt may personally or by his agent inspect such books.

Disclaimer as to onerous property.

22. When any property of the bankrupt acquired by the trustee under this Act consists of land of any tenure burdened with onerous covenants, of unmarketable shares in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance

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of any onerous act, or to the payment of any sum of money, the trustee, notwithstanding he has endeavoured to sell, or has taken possession of such property or exercised any act of ownership in relation thereto, may, by writing under his hand, disclaim such property, and upon the execution of such disclaimer the property disclaimed shall, if the same is a contract, be deemed to be determined from the date of the order of adjudication, and if the same is a lease be deemed to have been surrendered on the same date, and if the same be shares in any company be deemed to be forfeited from that date, and if any other species of property it shall revert, so far as regards the estate or interest of the bankrupt, to such person entitled or interested in such property as the Court may, having regard to all the circumstances of the case, direct, but in no case shall any estate or interest therein remain in the bankrupt. Any person interested in any disclaimed property may apply to the Court, and the Court may, upon such application, order possession of the disclaimed property to be delivered up to him, or make such other order as to the possession thereof as may be just.

Any person injured by the operation of this section shall be deemed a creditor of the bankrupt to the extent of such injury, and may accordingly prove a debt against his property.

Limitation of time for disclaimer.

23. The trustee shall not be entitled to disclaim any property in pursuance of this Act in cases where an application in writing has been made to him by any person interested in such property, requiring such trustee to decide whether he will disclaim or not, and the trustee has for a period of not less than twenty-eight days after the receipt of such application or such further time as may be allowed by the Court declined or neglected to give notice whether he disclaims the same or not.

Power of trustee to deal with property.

24. Subject to the provisions of this Act, the trustee shall have power to do the following things :

(1.) To receive and decide upon proof of debts in the prescribed manner, and for such purpose to administer oaths :

(2.) To carry on the business of the bankrupt so far as may be necessary for the beneficial winding up of the same :

(3.) To bring or defend any action, suit, or other legal proceeding relating to the property of the bankrupt :

(4.) To deal with any property to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with the same; and the sections fifty-six to seventy-three (both inclusive) of the Act of the session of the third and fourth years of the reign of King

William the Fourth (chapter seventy-four), "for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance," shall extend and apply to proceedings in bankruptcy under this Act as if those sections were here re-enacted and made applicable in terms to such proceedings:

(5.) To exercise any powers the capacity to exercise which is vested in him under this Act, and to execute all powers of attorney, deeds, and other instruments expedient or necessary for the purpose of carrying into effect the provisions of this Act:

(6.) To sell all the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt) by public auction or private contract, with power, if he thinks fit, to transfer the whole thereof to any person or company, or to sell the same in parcels:

(7.) To give receipts for any money received by him effectually discharging the person paying such monies from all responsibility in respect of the application thereof:

(8.) To prove, rank, claim, and draw a dividend in the matter of the bankruptcy or sequestration of any debtor of the bankrupt:

(9.) With the consent of the committee of inspection, to refer any dispute to arbitration.

To allow bankrupt to manage property.

25. The trustee may appoint the bankrupt himself to superintend the management of the property or of any part thereof, or to carry on the trade of the bankrupt (if any) for the benefit of the creditors, and in any other respect to aid in administering the property in such manner and on such terms as the creditors direct.

Power of trustee to compromise, &c.

26. The trustee may, with the sanction of a special resolution of the committee of inspection assembled at any meeting of which notice has been given specifying the object of such meeting, do all or any of the following things:

(1.) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts:

(2.) Compromise all debts, claims, and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any debtor or person who may have incurred any liability to the bankrupt, upon the receipt of such sums,

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payable at such times, and generally upon such terms as may be agreed upon :

(3.) Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors in respect of any debts provable under the bankruptcy :

(4.) Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person :

(5.) To divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot advantageously be realized by sale.

The sanction given for the purposes of this section may be a general permission to do all or any of the above mentioned things, or a permission to do all or any of them in any specified case or cases.

Clause A. Power of trustee to accept composition or general scheme of arrangement.

27. The trustee may, with the sanction of a special resolution of the creditors assembled at any meeting of which notice has been given specifying the object of such meeting, accept any composition offered by the bankrupt, or assent to any general scheme of settlement of the affairs of the bankrupt upon such terms as may be thought expedient, and with or without a condition that the order of adjudication is to be annulled, subject nevertheless to the approval of the Court, to be testified by the judge of the Court signing the instrument containing the terms of such composition or scheme, or embodying such terms in an order of the Court.

Where the annulling the order of adjudication is made a condition of any composition with the bankrupt or of any general scheme for the liquidation of his affairs, the Court, if it approves of such composition or general scheme, shall annul the adjudication on an application made by or on behalf of any person interested, and the adjudication shall be annulled from and after the date of the order annulling the same.

The provisions of any composition or general scheme made in pursuance of this Act may be enforced by the Court on a motion made in a summary manner by any person interested, and any disobedience of the order of the Court made on such motion shall be deemed to be a contempt of Court. The approval of the Court shall be conclusive as to the validity of any such composition or scheme, and it shall be binding on all the creditors so far as relates to any debts due to them and provable under the bankruptcy.

28. The trustee shall pay all sums from time to time received by him into such bank as the majority of the creditors in number and value at any general meeting shall appoint, and failing such appointment into the Bank of England; and if he at any time keep in his hands any sum exceeding fifty pounds for more than ten days he shall be subject to the following liabilities; that is to say,

Trustee to pay moneys into bank.

(1.) He shall pay interest at the rate of twenty pounds per centum per annum on the excess of such sum above fifty pounds as he may retain in his hands:

(2.) Unless he can prove to the satisfaction of the Court that his reason for retaining the money was sufficient, he shall, on the application of any creditor, be dismissed from his office by the Court, and shall have no claim for remuneration, and be liable to any expenses to which the creditors may be put by or in consequence of his dismissal.

Payment of Debts and Distribution of Assets.

29. Demands in the nature of unliquidated damages arising otherwise than by reason of a contract or promise shall not be provable in bankruptcy.

Description of debts provable in bankruptcy.

Save as aforesaid all debts and liabilities present or future, certain or contingent, to which the bankrupt is subject at the commencement of the bankruptcy, or to which he may become subject during the continuance of the bankruptcy by reason of any obligation incurred previously to its commencement, shall be deemed to be debts provable in bankruptcy, and may be proved in the prescribed manner before the trustee in the bankruptcy.

An estimate shall be made according to the rules of the Court for the time being in force, so far as the same may be applicable, and where they are not applicable at the discretion of the trustee of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency or contingencies, or for any other reason does not bear a certain value.

Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the Court, and the Court may, if it think the value of the debt or liability incapable of being fairly estimated, make an order to that effect, and upon such order being made, such debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy, but if the Court think that the value of the debt or liability is capable of being fairly estimated, it may direct such value to be assessed with the consent of all the parties interested before the Court itself without the intervention of a jury, or if such parties do not consent by a jury, either before the Court itself or some other competent Court, and may give all

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necessary directions for such purpose, and the amount of such value when assessed shall be provable as a debt under the bankruptcy.

"Liability" shall for the purposes of this Act include any compensation for work or labour done, any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement, or undertaking, whether such breach does or does not occur, or is or is not likely to occur or capable of occurring before the close of the bankruptcy, and generally it shall include any express or implied engagement, agreement, or undertaking, to pay, or capable of resulting in the payment of money or money's worth, whether such payment be as respects amount fixed or unliquidated; as respects time present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation capable of being ascertained by fixed rules, or assessable only by a jury, or as matter of opinion.

Preferential debts.

30. The debts herein-after mentioned shall be paid in priority to all other debts. Between themselves such debts shall rank equally, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves; that is to say,

(1.) All parochial or other local rates due from him at the date of the order of adjudication, and having become due and payable within six months next before such time, all assessed taxes, land tax, and property or income tax assessed on him up to the fifth day of April next before the date of the order of adjudication, and not exceeding in the whole one year's assessment;

(2.) All wages or salary due to any clerk or servant in the employment of the bankrupt at the date of the order of adjudication, not exceeding four months wages or salary, and not exceeding fifty pounds; all wages due to any labourer or workman in the employment of the bankrupt at the date of the order of adjudication, and not exceeding two month's wages:

Save as aforesaid, all debts provable under the bankruptcy shall be paid pari passu.

Preferential claim in case of apprenticeship.

31. Where at the time of the presentation of the petition for adjudication any person is apprenticed or is an articled clerk to the bankrupt, the order of adjudication shall, if either the bankrupt or apprentice or clerk give notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of such apprentice or clerk to the bankrupt as a fee, the

trustee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as he, subject to an appeal to the Court, thinks reasonable, out of the bankrupt's property to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

Where it appears expedient to a trustee he may, on the application of any apprentice or articled clerk to the bankrupt, or any person acting on behalf of such apprentice or articled clerk, instead of acting under the preceding provisions of this section, transfer the indenture of apprenticeship or articles of agreement to some other person.

Power for landlord to distrain for rent.

32. The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt, with this limitation, that if such distress for rent be levied after the commencement of the bankruptcy it shall be available only for one half year's rent accrued due prior to the commencement of the bankruptcy, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the overplus due for which the distress may not have been available.

Proof in case of rent and periodical payment.

33. When any rent or other payment falls due at stated periods, and the order of adjudication is made at any time other than one of such periods, the person entitled to such rent or payment may prove for a proportionate part thereof up to the day of the adjudication as if such rent or payment grew due from day to day.

Clause C.
Interest on debts.

34. Interest on any debt provable in bankruptcy, may be allowed by the trustee under the same circumstances in which interest would have been allowable by a jury if an action had been brought for such debt.

Clause D.
Proof in respect of distinct contracts.

35. If any bankrupt is at the date of the order of adjudication liable in respect of distinct contracts as member of two or more distinct firms, or as a sole contractor, and also as member of a firm; the circumstance that such firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of such contracts, against the properties respectively liable upon such contracts.

Allowance to bankrupt for maintenance or service.

36. The trustee, with the consent of the creditors, testified by a resolution passed in general meeting, may from time to time,

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during the continuance of the bankruptcy, make an allowance to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate.

Set off.

37. Where there have been mutual credits, mutual debts, or other mutual dealings between the bankrupt and any other person, an accouut shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of such account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set off against the property of a bankrupt in any case where he had at the time of giving credit to the bankrupt notice of an act of bankruptcy committed by such bankrupt and available against him for adjudication.

Provision as to secured creditor.

38. A creditor holding a specific security on the property of the bankrupt, or on any part thereof, may, on giving up his security, prove for his whole debt.

He shall also be entitled to a dividend in respect of the balance due to him after realizing or giving credit for the value of his security, in manner and at the time prescribed.

A creditor holding security and not complying with the foregoing conditions shall be excluded from all share in any dividend.

Dividends.

Distribution of dividends.

39. The trustee shall from time to time, when he has realized a sufficient sum of money from the property of the bankrupt, declare a dividend amongst the creditors who have proved to his satisfaction debts provable in bankruptcy, and shall distribute the same accordingly; and in the event of his not declaring a dividend for the space of six months, he shall summon a meeting of the creditors, and explain to them his reasons for not declaring the same.

Provision for creditors residing at a distance, &c.

40. In the calculation and distribution of a dividend it shall be obligatory on the trustee to make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting, that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy, the subject of claims not yet determined.

Right of creditor who has not proved debt

41. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any moneys for the time being in the hand of the trustee any

dividend or dividends he may have failed to receive before such moneys are made applicable to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

before declaration of a dividend.

42. When the trustee has converted into money all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realized without needlessly protracting the bankruptcy, he shall declare a final dividend, and give notice of the time at which it will be distributed.

Final dividend.

43. The bankrupt shall be entitled to any surplus remaining after payment of his creditors, and of the costs, charges, and expenses of the bankruptcy.

Bankrupt entitled to surplus.

44. No action or suit for a dividend shall lie against the trustee, but if the trustee refuses to pay any dividend the Court may, if it thinks fit, order the trustee to pay the same, and also to pay out of his own moneys interest thereon for the time that it is withheld, and the costs of the application.

No action for dividend.

Close of Bankruptcy.

Close of Bankruptcy.

45. When the whole property of the bankrupt has been realized for the benefit of his creditors, or so much thereof as can, in the joint opinion of the trustee and committee of inspection, be realized without needlessly protracting the bankruptcy, or a composition or arrangement has been completed, the trustee shall make a report accordingly to the Court, and the Court, if satisfied that the whole of the property of the bankrupt has been realized for the benefit of his creditors, or so much thereof as can be realized without needlessly protracting the bankruptcy, or that a composition or arrangement has been completed, shall make an order that the bankruptcy has closed, and the bankruptcy shall be deemed to have closed at and after the date of such order.

Close of bankruptcy.

A copy of the order closing the bankruptcy may be published in the London Gazette, and the production of a copy of such gazette containing a copy of the order shall be conclusive evidence of the order having been made and of the date and contents thereof.

Clause B.
Discharge of Bankrupt.

Discharge of Bankrupt.

46. When a bankruptcy is closed, or at any time during its continuance, with the assent of the creditors testified by a special resolution, the bankrupt may apply to the Court for an order of discharge; but such discharge shall not be granted unless it is proved to the Court that one of the following conditions has been fulfilled, that is to say, either that a dividend of not less than ten

Order of discharge.

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Part II.

Discharge of Bankrupt.

shillings in the pound has been paid out of his property, or might have been paid except through the negligence or fraud of the trustee, or that a special resolution of his creditors has been passed to the effect that his bankruptcy has, in their opinion, arisen from unavoidable misfortune, and that they desire that an order of discharge should be granted to him; and the Court may suspend for such time as it deems to be just, or withhold altogether, the order of discharge in the circumstances following, namely; if it appears to the Court on the representation of the creditors made by special resolution, of the truth of which representation the Court is satisfied, or by other sufficient evidence, that the bankrupt has made default in giving up to his creditors the property which he is required by this Act to give up; or that a prosecution has been commenced against him in pursuance of the provisions relating to the punishment of fraudulent debtors, contained in the "Debtors Act, 1869," in respect of any offence alleged to have been committed by him against the said Act.

Effect of order of discharge.

47. An order of discharge shall release the bankrupt from all debts provable under the bankruptcy, with the exception of—

(1.) Debts due to the Crown:

(2.) Debts with which the bankrupt stands charged at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence:

And he shall not be discharged from such excepted debts unless the Commissioners of the Treasury certify in writing their consent to his being discharged therefrom, and he shall not be discharged from any debt or liability incurred by means of any fraud, false pretence, or breach of trust, nor from any debt or liability whereof he has before bankruptcy obtained forbearance by any fraud or false pretence.

An order of discharge shall be sufficient evidence of the bankruptcy, and of the validity of the proceedings thereon, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by such order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

Exception of joint debtors.

48. The order of discharge shall not release any person who, at the date of the order of adjudication, was a partner with the bankrupt, or was jointly bound or had made any joint contract with him.

Release of Trustee.

Release of trustee.

49. When the bankruptcy is closed the trustee shall call a meeting of the creditors to consider an application to be made to the Court for his release. At the meeting the trustee shall lay before the assembled creditors an account showing the manner in which the bankruptcy has been conducted, with a list of the unclaimed dividends, if any, and of the property, if any, outstanding, and shall inform the meeting that he proposes to apply to the Court for a release.

The creditors assembled at the meeting may express their opinion as to the conduct of the trustee, and they, or any of them, may appear before the Court and oppose the release of the trustee.

The Court, after hearing what, if anything, can be urged against the release of the trustee, shall grant or withhold the release accordingly, and if it withhold the release shall make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty, and shall suspend his release until such charging order has been complied with, and the Court thinks just to grant the release of the trustee.

Duty of trustee as to unclaimed dividends and outstanding property.

50. Unclaimed dividends, and any other monies arising from the property of the bankrupt, remaining under the control of the trustee at the close of the bankruptcy of any bankrupt, or accruing thereafter, shall be accounted and paid over to such account as may be directed by the rules of Court; and any parties entitled thereto may claim the same in manner directed by such rules. The trustee shall also deliver a list of any outstanding property of the bankrupt to the prescribed persons, and the same shall, when practicable, be got in and applied for the benefit of the creditors in manner prescribed.

Effect of release of trustee.

51. The order of the Court releasing the trustee of a bankruptcy shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee of such bankrupt; but such order may be revoked by the Court on proof that it was obtained by fraud.

Status of undischarged Bankrupt.

Status of undischarged Bankrupt.

Status of undischarged bankrupt.

52. Where a person who has been made bankrupt has not obtained his discharge, then, from and after the close of his bankruptcy, the following consequences shall ensue:

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Audit.

(1.) No portion of a debt provable under the bankruptcy shall be enforced against the property of the person so made bankrupt until the expiration of three years from the close of the bankruptcy; and during that time, if he pay to his creditors such additional sum as will, with the dividend paid out of his property during the bankruptcy, make up ten shillings in the pound, he shall be entitled to an order of discharge in the same manner as if a dividend of ten shillings in the pound had originally been paid out of his property:

(2.) At the expiration of a period of three years from the close of the bankruptcy, if the debtor made bankrupt has not obtained an order of discharge, any balance remaining unpaid in respect of any debt proved in such bankruptcy (but without interest in the meantime), shall be deemed to be a subsisting debt in the nature of a judgment debt, and, subject to the rights of any persons who have become creditors of the debtor since the close of his bankruptcy, may be enforced against any property of the debtor, with the sanction of the Court which adjudicated such debtor a bankrupt, or of the Court having jurisdiction in bankruptcy in the place where the property is situated, but to the extent only, and at the time and in manner directed by such Court, and after giving such notice and doing such acts as may be prescribed in that behalf.

Audit.

Appointment of comptroller.

53. The trustee having had his quarterly statement of accounts audited by the committee of inspection, shall, within the prescribed time, forward the certified statement in the prescribed form to an officer to be called the comptroller in bankruptcy, and if he fail to do so he shall be deemed guilty of a contempt of court to be punishable accordingly. The first and any subsequent comptroller shall be appointed by the Lord Chancellor, and hold office during his pleasure. The comptroller shall be provided with such office in London, and with such assistance by way of clerks, messengers, and other officers, as may be directed by the Lord Chancellor, with the approval of the Treasury. The clerks, messengers, and other officers in the office of the comptroller shall be appointed and dismissible by the comptroller, and there shall be allowed, and paid to him such sum as the Treasury may from time to time direct for the expenses of his office, and of such clerks and other persons as may be deemed necessary by the Treasury.

54. Every trustee of a bankrupt shall from time to time, as may be prescribed, and not less than once in every year during the bankruptcy, transmit to the comptroller a statement showing the proceedings in such bankruptcy up to the date of the statement containing the prescribed particulars, and made out in the prescribed form; and any trustee failing to transmit accounts in compliance with this section shall be deemed guilty of a contempt of court, and be punishable accordingly.

Return of accounts to comptroller.

55. The comptroller shall examine the statements transmitted to him, and shall call the trustee to account for any misfeasance, neglect, or omission which may appear on such statements, and may require the trustee to make good any loss the estate of the bankrupt may have sustained by such misfeasance, neglect, or omission. If the trustee fail to comply with such requisition of the comptroller, the comptroller may report the same to the Court; and the Court, after hearing the explanation, if any, of the trustee, shall make such order in the premises as it thinks just.

Duty of comptroller.

56. The comptroller may at any time require any trustee to answer any inquiry made by him in relation to any bankruptcy in which such trustee is engaged, and may, if he think fit, apply to the Court to examine on oath such trustee or any other person concerning such bankruptcy.

Powers of comptroller.

PART III.

Constitution and Powers of Court.

Part III.
Description of Court.

Description of Court.

57. From and after the commencement of this Act the following provisions shall take effect with respect to the Courts having jurisdiction in bankruptcy, and their officers; that is to say,

Court to consist of London Court and County Courts.

If the person sought to be adjudged a bankrupt reside or carry on business within the London Bankruptcy District as herein-after defined, or be not resident in England, then "the Court" shall mean, for the purposes of this Act, the Court of Bankruptcy in London as constituted by this Act, and herein-after referred to as the London Bankruptcy Court:

If the person sought to be adjudged a bankrupt, being resident in England, do not reside or carry on business within the London Bankruptcy District, then "the Court" shall, subject to the provisions herein-after contained for removing the proceedings, mean the county court of the district in which such person resides or carries on business, herein-after referred to as the local Bankruptcy Court.

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Part III.

Description of Court.

Definition of the London Bankruptcy District.

58. The London Bankruptcy District shall, for the purposes of this Act, comprise the following places; that is to say, the city of London and the liberties thereof, and all such parts of the metropolis and other places as are situated within the district of any county court described as a metropolitan county court in the list contained in the second schedule hereto.

Constitution of the London Bankruptcy Court.

59. The London Bankruptcy Court shall from and after the commencement of this Act consist of a judge, to be called the Chief Judge in Bankruptcy, and, subject to the provisions of this Act with respect to the officers of the existing London Bankruptcy Court, of such number of registrars not exceeding four, clerks, ushers, and other subordinate officers, as may be determined by the Chief Judge with the sanction of the Treasury.

Subject to the provisions of this Act with respect to the appointment of the first Chief Judge, the office of Chief Judge in Bankruptcy shall be filled by such one of the judges of Her Majesty's Superior Courts of Common Law or of Equity as may, with his assent, be assigned to hold such office by the Lord Chancellor; the judge so assigned shall hold the office of Chief Judge in Bankruptcy in addition to the office of judge in the court to which he belongs. Any puisne judge or Vice-Chancellor appointed to any of the said Courts after the passing of this Act, shall, when required by the Lord Chancellor, perform the duties of Chief Judge in Bankruptcy.

Appointment of registrars and other officers.

60. Subject to the provisions in this Act with respect to the officers of the existing London Bankruptcy Court, the registrars, clerks, ushers, and other subordinate officers shall be appointed by the Chief Judge for the time being, and may be removed by him and others appointed in their stead if the judge is of opinion that they are negligent, unskilful, or untrustworthy in their performance of their duties, or ought in his opinion to be removed for any other just cause.

Salaries of officers.

61. Subject as aforesaid, there shall be paid, out of monies provided by Parliament, to the registrars, clerks, ushers, and other subordinate officers such salaries as the Chief Judge with the sanction of the Treasury may determine.

Clause N. Superannuation of registrars, &c.

62. The registrars, clerks, and other persons holding their offices at the passing of this Act who may be continued in their offices, shall, on their retirement therefrom, be allowed such superannuation as they would have been entitled to receive if this Act had not been passed, and they had continued in their offices under the existing Acts; and any other registrar, officer, or person appointed to any office under this Act may be allowed superannuation in pursuance of the provisions of the Superannuation Act of 1859.

63. Subject as aforesaid, the registrars, clerks, ushers, and other subordinate officers of the London Bankruptcy Court shall perform such duties as may from time to time be assigned to them by the Chief Judge with the assent of the Lord Chancellor.

Duties of subordinate officers of court.

64. The London Court of Bankruptcy shall continue to be a court of law and of equity and a principal court of record, and the Chief Judge in Bankruptcy shall have all the powers, jurisdiction, and privileges possessed by any judge of Her Majesty's Superior Courts of Common Law at Westminster, or by any judge of Her Majesty's High Court of Chancery, and the orders of such judge shall be of the same force as if they were judgments in the Superior Courts of Common Law or decrees in the High Court of Chancery. The Chief Judge in Bankruptcy may sit in chambers, and when in chambers shall have the same jurisdiction and exercise the same powers as if sitting in open court.

Jurisdiction of the London Court of Bankruptcy.

65. Every judge of a local Court of Bankruptcy shall, for the purposes of this Act, in addition to his ordinary powers as a county court judge, have all the powers and jurisdiction of a judge of Her Majesty's High Court of Chancery, and the orders of such judge may be enforced accordingly.

Jurisdiction of county court judges.

66. The Chief Judge in Bankruptcy and every judge of a local Court of Bankruptcy may delegate to the registrar or to any other officer of his court such of the powers vested in him by this Act as it may be expedient for the judge to delegate to him, having regard to rules of Court and to any restrictions that may be imposed in respect of such delegation by the Lord Chancellor.

Powers of Court to delegate authority to registrar.

Clause O.

67. The Lord Chancellor shall, with the sanction of the Treasury, from time to time prescribe a scale of fees to be charged for any business done by any Court or officer thereof under this Act; and the Treasury shall direct whether the same shall be imposed by stamps or otherwise, and by whom and in what manner the same shall be collected, accounted for, and appropriated, and whether any and what remuneration shall be allowed to any person performing any duties under this Act.

Scale of fees.

Clause G.

68. No judge, registrar, or officer having jurisdiction in bankruptcy, or attached to any Court having jurisdiction in bankruptcy, shall, during his continuance in office, be capable of being elected or sitting as a member of the House of Commons; and no registrar or officer of such Court shall, during his continuance in office, either directly or indirectly, by himself or partner, act as an attorney or solicitor in any proceeding in any bankruptcy in any Court of which he is registrar or officer, or in any appeal from such Court, under

Judges and officers in bankruptcy to be ineligible to sit in Parliament.

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Part III.

Description of Court.

pain of dismissal by the judge; and such dismissal shall be in writing, stating the reasons for the same; and a copy thereof shall be sent to the Chief Judge in Bankruptcy, who, if he shall see fit, may reinstate such registrar or officer.

Clause P. Solicitors of Court of Chancery may practise in Bankruptcy Court.

69. Every attorney and solicitor of the Superior Courts shall be, and may practise as a solicitor of, and in the Court of Bankruptcy, and in matters before the Chief Judge or registrars, in the London Court of Bankruptcy, in court or in chambers, may appear and be heard without being required to employ counsel; and if any person not being such attorney or solicitor practises in the Court of Bankruptcy as attorney or solicitor, he shall be deemed guilty of a contempt of the Court.

Appeal from Courts.

70. Every Court having jurisdiction in bankruptcy under this Act may review, rescind, or vary any order made by it in pursuance of this Act. Any person aggrieved by any order of a local Bankruptcy Court in respect of a matter of fact or of law made in pursuance of this Act may appeal to the Chief Judge in Bankruptcy, and it shall be lawful for such judge to alter, reverse, or confirm such order as he thinks just. Any order made by the Chief Judge in Bankruptcy, whether in respect of a matter brought before him on appeal or not, shall be subject to an appeal to the Court of Appeal in Chancery (which Court, for the purposes of this Act, shall be and form a Court of Record, and shall have all the jurisdiction, powers, and authorities of the Court of Bankruptcy, to be exerciseable either originally or on appeal, and shall have all the powers and authorities of the Court of Chancery relative to the trial of questions of fact, by jury, issue, or otherwise), and also, with the leave of the Court of Appeal, to the House of Lords, but no appeal shall be entertained under this Act except in conformity to such rules of court as may for the time being be in force in relation to such appeal.

General power of Bankruptcy Courts.

71. Subject to the provisions of this Act, every Court having jurisdiction in bankruptcy under this Act shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, arising in any case of bankruptcy coming within the cognizance of such Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case; and no such Court as aforesaid shall be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act; and if in any proceeding in bankruptcy there arises any question of fact which the parties desire to be tried before a jury instead of by the Court itself, or

which the Court thinks ought to be tried by a jury, the Court may direct such trial to be had, and such trial may be had accordingly, in the London Court of Bankruptcy, in the same manner as if it were the trial of an issue in one of the superior Courts of Common Law, and in the County Court in the manner in which jury trials in ordinary cases are by law held in such Court.

Orders and Warrants of Court.

Enforcement of warrant and orders of Courts.

72. Any order made by a Court having jurisdiction in bankruptcy in England under this Act shall be enforced in Scotland and Ireland in the Courts having jurisdiction in bankruptcy in such countries respectively, in the same manner in all respects as if such order had been made by the Courts which are hereby required to enforce the same; and in like manner any order made by the Court in Scotland having jurisdiction in bankruptcy shall be enforced in England and Ireland, and any order made by the Court having jurisdiction in bankruptcy in Ireland shall be enforced in England and Scotland by the Courts respectively having jurisdiction in bankruptcy in the division of the United Kingdom where the orders made require to be enforced, and in the same manner in all respects as if such order had been made by the Court required to enforce the same in a case of bankruptcy within its own jurisdiction.

Clause H. Courts in England to be auxiliary to other Courts, &c.

73. The London Bankruptcy Court, the local Bankruptcy Court, the Courts having jurisdiction in bankruptcy in Scotland and Ireland, and every British Court elsewhere having jurisdiction in bankruptcy or insolvency, and the officers of such Courts respectively, shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy, and an order of the Court seeking aid, together with a request to another of the said Courts, shall be deemed sufficient to enable the latter Court to exercise, in regard to the matters directed by such order, the like jurisdiction, which the Court which made the request, as well as the Court to which the request is made, could exercise in regard to similar matters within their respective jurisdictions.

Examination in Scotland or Ireland.

74. Any Court having jurisdiction in bankruptcy in England under this Act may, if it thinks fit, order that a person named in the order being in Scotland or in Ireland shall be examined there.

Warrants of Bankruptcy Courts.

75. Any warrant of a Court having jurisdiction in bankruptcy in England under this Act may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in Her Majesty's dominions, in the same manner and subject to the same privileges in and subject to which a warrant issued by any justice of the

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peace against a person for an indictable offence against the laws of England, may be executed in such countries respectively in pursuance of the Acts of Parliament in that behalf; and any search warrant issued by a Court having jurisdiction in bankruptcy under this Act for the discovery of any property of a bankrupt may be executed in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law.

Commitment to prison.

76. Where any Court having jurisdiction in bankruptcy under this Act commits any person to prison the commitment may be to such convenient prison as the Court thinks expedient, and if the gaoler of any prison refuses to receive any prisoner so committed he shall be liable for every such refusal to a penalty not exceeding one hundred pounds.

General Rules.

General rules to be made by Court.

77. The Lord Chancellor, with the advice of the chief judge in bankruptcy, may from time to time make, and may from time to time revoke and alter, general rules, in this Act described as rules of Court, for the effectual execution of this Act, and of the objects thereof, and the regulation of the practice and procedure of bankruptcy petitions and the proceedings thereon.

Any general rules made as aforesaid may prescribe regulations as to the service of bankruptcy petitions including provisions for substituted service; as to the valuing of any debts provable in a bankruptcy; as to the valuation of securities held by creditors; as to the giving or withholding interest or discount on or in respect of debts or dividends; as to the funds out of which costs are to be paid, the order of payment, and the amount and taxation thereof; and as to any other matter or thing, whether similar or not to those above enumerated, in respect to which it may be expedient to make rules for carrying into effect the objects of this Act; and any rules so made shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if they were enacted in the body of this Act.

Any rules made in pursuance of the section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting; and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament, and any rules so made shall be judicially noticed.

Until rules have been made in pursuance of this Act, and so far as such rules do not extend, the principles, practice, and rules on which Courts having jurisdiction in bankruptcy have heretofore

acted in dealing with bankruptcy proceedings shall be observed by any Court having jurisdiction in bankruptcy cases under this Act.

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General Rules.

PART IV.

Supplemental Provisions.

As to Proceedings.

Part IV.

Supplemental Provisions.

78. The following regulations shall be made with respect to proceedings in bankruptcy; namely:

Supplemental regulations as to proceedings in bankruptcy.

(1.) Where two or more bankruptcy petitions are presented against the same debtor or against debtors being members of the same partnership, the Court may consolidate the proceedings, or any of them, upon such terms as the Court thinks fit:

(2.) Where proceedings against the debtor are instituted in more Courts than one the London Court of Bankruptcy may, on the application of any creditor, direct the transfer of such proceedings to the London Court of Bankruptcy, or to any local Bankruptcy Court in which any such proceedings may have been instituted:

(3.) Where the petitioner does not proceed with due diligence on his petition the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of a petitioning creditor:

(4.) Where the creditors resolve by a special resolution that it will be more convenient that the proceedings in any local Bankruptcy Court should be transferred to the London Court or to some other local Court, or where the judge of a local Court certifies that in his opinion the bankruptcy would be more advantageously conducted in the London Court or in some other local Court, and the creditors do not by resolution object to the transfer, the petition shall be transferred to and all subsequent proceedings thereon had in the London Court or such other local Court:

(5.) Subject to the provisions of this Act, every Court having original jurisdiction in bankruptcy shall be deemed to be the same Court, and to have jurisdiction throughout England; and cases may be transferred from one Court to another in such manner as may be prescribed:

(6.) A corporation may prove a debt, vote, and otherwise act in bankruptcy, by an agent duly authorized under the seal of the corporation:

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(7.) A creditor may, in the prescribed manner, by instrument in writing, appoint a person to represent him in all matters relating to any debtor or his affairs in which a creditor is concerned in pursuance of this Act, and such representative shall thereupon, for all the purposes of this Act, stand in the same position as the creditor who appointed him:

(8.) When a debtor who has been adjudicated a bankrupt dies, the Court may order that the proceedings in the matter be continued as if he were alive:

(9.) The Court may, at any time, on proof to its satisfaction that proceedings in bankruptcy ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.

Clause I. Consequences of annulling of adjudication.

79. Whenever any adjudication in bankruptcy is annulled all sales and dispositions of property and payments duly made, and all acts theretofore done, by the trustee or any person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged a bankrupt shall in such case vest in such person as the Court may appoint, or in default of any such appointment revert to the bankrupt for all his estate or interest therein upon such terms and subject to such conditions, if any, as the Court may declare by order. A copy of the order of the Court annulling the adjudication of a debtor as a bankrupt shall be forthwith published in the London Gazette and advertised locally in the prescribed manner, and the production of a copy of the gazette containing such order shall be conclusive evidence of the fact of the adjudication having been annulled, and of the terms of the order annulling the same.

Formal defects not to invalidate proceedings.

80. No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the Court before which an objection is made to such proceeding is of opinion that substantial injustice has been caused by such defect or irregularity, and that such injustice cannot be remedied by any order of such Court.

As to Trustees and Committee of Inspection.

Regulations as to trustees, &c.

81. The following regulations shall be made with respect to the trustee and committee of inspection:

(1.) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and where more than one are appointed they shall declare whether any act required

or authorized to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee," and shall be joint tenants of the property of the bankrupt. The creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee:

(2.) If any vacancy occur in the office of trustee by death, resignation, or otherwise, the creditors in general meeting shall fill up such vacancy, and a general meeting for the purpose of filling up such vacancy may be convened by the continuing trustee, if there be more than one, or by the registrar on the requisition of any creditor:

(3.) If, through any cause whatever, there is no trustee acting during the continuance of a bankruptcy, the registrar of the Court for the time being having jurisdiction in the bankruptcy, or some other person appointed by the Court, shall act as such trustee:

(4.) The Court may, upon cause shown, remove any trustee. The creditors may, by special resolution at a meeting specially called for that purpose, of which seven days notice has been given, remove the trustee and appoint another person to fill his office, and the Court shall give a certificate declaring him to be the trustee:

(5.) If a trustee be adjudged bankrupt, he shall cease to be trustee, and the registrar shall, if there be no other trustee, call a meeting of creditors for the appointment of another trustee in his place:

(6.) The property of the bankrupt shall pass from trustee to trustee, including under that term the registrar when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever:

(7.) The trustee of a bankrupt may sue and be sued by the official name of "the trustee of the property of a bankrupt," inserting the name of the bankrupt, and by that name may hold property of every description, make contracts, sue and be sued, enter into any engagements binding upon himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office:

(8.) The trustee acting in his official capacity shall be liable only to the extent of the assets of the bankrupt coming to his

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hands, and shall not be personally liable for any engagements entered into, or costs or debt incurred by him while acting in his official capacity, but all such engagements, costs, and debts shall be satisfied out of the moneys for the time being received by him in his official capacity:

(9.) The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly:

(10.) All acts and things by this Act authorized or required to be done by or to the registrar may be done within the district of each Court having jurisdiction in bankruptcy by or to the registrar of that Court, or by or to such other person as may be appointed for that purpose by such Court:

(11.) Any member of the committee of inspection may resign his office by notice in writing signed by him, and delivered to the trustee:

(12.) The creditors may by resolution fix the quorum required to be present at a meeting of the committee of inspection. If no such quorum is fixed three shall be a quorum where the number of the committee is more than three, and where it is not more than three all the members must be present to make a meeting:

(13.) Any member of the committee of inspection may also be removed by a special resolution at any meeting of creditors of which seven days previous notice has been given, stating the object of the meeting:

(14.) On any vacancy occurring in the office of a member of the committee of inspection by removal, death, resignation, or otherwise, the trustee shall convene a meeting of creditors for the purpose of filling up such vacancy:

(15.) The continuing members of the committee of inspection may act, notwithstanding any vacancy in their body:

(16.) No defect or irregularity in the election of a trustee or of a member of the committee of inspection shall vitiate any act bonâ fide done by him; and no act or proceeding of the trustee or of the creditors shall be invalid by reason of any failure of the creditors to elect all or any members of the committee of inspection:

(17.) If a member of the committee of inspection become a bankrupt his office shall thereupon become vacant:

(18.) Where there is no committee of inspection, any act or thing or any direction or consent by this Act authorized or required to be done or given by such committee may be done or given by the Court on the application of the trustee.

Power of Court, on failure of creditors, to appoint trustee.

82. The registrar may adjourn the first meeting of creditors from time to time and from place to place, subject to the directions of the Court; but if, at such first meeting of creditors or at some adjournment thereof, no trustee is appointed by reason of the prescribed quorum not being present, or for any other reason whatever, the Court shall annul the adjudication, unless it deems it expedient for special reasons to carry on the bankruptcy with the aid of the registrar as trustee. Moreover, if at any time during the bankruptcy no new trustee is appointed by the creditors to fill a vacancy in that office, the Court may either carry on the bankruptcy with the aid of the registrar as trustee or annul the order of adjudication, as it thinks just.

As to Power over Bankrupt.

Post letters addressed to bankrupt.

83. The Court, upon the application of the trustee, may from time to time order that, for such time as the Court thinks fit, not exceeding three months from the date of the order of adjudication, post letters addressed to the bankrupt at any place or any of the places mentioned in the order, shall be re-directed, sent, or delivered by the postmaster general or the officers acting under him, to the trustee or otherwise as the Court directs, and the same shall be done accordingly.

Arrest of bankrupt under certain circumstances.

84. The Court may, by warrant addressed to any constable or person named in such warrant, cause a debtor to be arrested, and any books, papers, moneys, goods, and chattels in his possession to be seized, and him and them to be safely kept until such time as the Court may order, under the following circumstances:

(1.) If, after a petition of bankruptcy is presented against such debtor, it appear to the Court that there is probable reason for believing that he is about to go abroad or to quit his place of residence with a view of avoiding service of the petition, or of avoiding appearing to the petition, or of avoiding examination in respect of his affairs, or otherwise delaying or embarrassing the proceedings in bankruptcy:

(2.) If, after a petition in bankruptcy has been presented against such debtor, it appear to the Court that there is probable cause for believing that he is about to remove his goods or

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chattels with a view of preventing or delaying such goods or chattels being taken possession of by the trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods or chattels, or any books, documents, or writings which might be of use to his creditors in the course of his bankruptcy:

(3.) If after the service of the petition on such debtor, or after an adjudication in bankruptcy against him, he remove any goods or chattels in his possession above the value of five pounds, without the leave of the trustee, or if, without good cause shown, he fails to attend any examination ordered by the Court.

As to Property devolving on Trustee.

Proceeds of sale and seizure of goods.

85. Where the goods of any trader have been taken in execution and sold, the sheriff, or in the case of a sale under the direction of the County Court, the high bailiff or other officer of the County Court, shall retain the proceeds of such sale in his hands for a period of fourteen days, and upon notice being served on him within that period of a bankruptcy petition having been presented against such trader, shall hold the proceeds of such sale, after deducting expenses, on trust to pay the same to the trustee; but if no notice of such petition having been presented be served on him within such period of fourteen days, or if, such notice having been served, the trader against whom the petition has been presented is not adjudged a bankrupt on such petition, or on any other petition of which the sheriff, high bailiff, or other officer has notice, he may deal with the proceeds of such sale in the same manner as he would have done had no notice of the presentation of a bankruptcy petition been served on him.

Sequestration of ecclesiastical benefice.

86. Where a bankrupt is a beneficed clergyman, the trustee may apply for a sequestration of the profits of the benefice, and the certificate of the appointment of the trustee shall be sufficient authority for the granting of sequestration without any writ or other proceeding, and the same shall accordingly be issued as on a writ of levari facias founded on a judgment against the bankrupt, and shall have priority over any other sequestration issued after the commencement of the bankruptcy; but the sequestrator shall allow out of the profits of the benefice to the bankrupt, while he performs the duties of the parish or place, such an annual sum, payable quarterly, as the bishop of the diocese in which the benefice is situate directs;

and the bishop may appoint to the bankrupt such or the like stipend as he might by law have appointed to a curate duly licensed to serve the benefice in case the bankrupt had been non-resident.

Appropriation of portion of pay of officers to creditors.

87. Where a bankrupt is or has been an officer of the army or navy, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, or is in the enjoyment of any pension or compensation granted by the Treasury, the trustee during the bankruptcy, and the registrar after the close of the bankruptcy, shall receive for distribution amongst the creditors so much of the bankrupt's pay, half pay, salary, emolument, or pension as the Court, upon the application of the trustee, thinks just and reasonable, to be paid in such manner and at such times as the Court, with the consent in writing of the chief officer of the department under which the pay, half pay, salary, emolument, pension, or compensation is enjoyed, directs.

Appropriation of portion of salary to creditors.

88. Where a bankrupt is in the receipt of a salary other than as aforesaid, the Court upon the application of the trustee shall make such order as it thinks just for the payment of such salary, or of any part thereof, to the trustee during the bankruptcy, and to the registrar if necessary after the close of the bankruptcy, to be applied by him in such manner as the Court may direct.

Avoidance of voluntary settlements.

89. Any settlement of property not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of such settlement, be void as against the trustee of the bankrupt appointed under this Act, and shall, if the settlor becomes bankrupt at any subsequent time within ten years after the date of such settlement, unless the parties claiming under such settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in such settlement, be void against such trustee.

"Settlement" shall for the purposes of this section include any conveyance or transfer of property.

Avoidance of fraudulent preferences.

90. Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own moneys in favour of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors, shall, if the person making, taking, paying, or suffering the same become

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bankrupt within three months after the date of making, taking, paying, or suffering the same, be deemed fraudulent and void as against the trustee of the bankrupt appointed under this Act; but this section shall not affect the rights of a purchaser, payee, or incumbrancer in good faith and for valuable consideration.

Payment of money by agents to trustee.

91. Any treasurer or other officer, or any banker, attorney, or agent of a bankrupt, shall pay and deliver to the trustee all moneys and securities in his possession or power, as such officer or agent, if he be not by law entitled to retain as against the bankrupt or the trustee; if he do not he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the trustee.

CLAUSE K. Protection of certain transactions with bankrupt.

92. Nothing in this Act contained shall render invalid,—

(1.) Any payment made in good faith and for value received to any bankrupt before the date of the order of adjudication by a person not having at the time of such payment notice of any act of bankruptcy comitted by the bankrupt, and available against him for adjudication:

(2.) Any payment or delivery of money or goods belonging to a bankrupt, made to such bankrupt by a depositee of such money or goods before the date of the order of adjudication, who had not at the time of such payment or delivery notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:

(3.) Any contract or dealing with any bankrupt, made in good faith and for valuable consideration, before the date of the order of adjudication, by a person not having, at the time of making such contract or dealing, notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.

CLAUSE L. Protection of certain transactions entered into by or in relation to the property of the bankrupt.

93. Subject, and without prejudice to the provisions of this Act relating to the proceeds of the sale and seizure of goods of a trader, and to the provisions of this Act avoiding certain settlements and avoiding, on the ground of their constituting fraudulent preferences, certain conveyances, charges, payments, and judicial proceedings, the following transactions by and in relation to the property of a bankrupt shall be valid, notwithstanding any prior act of bankruptcy,—

(1.) Any disposition or contract with respect to the disposition of property by conveyance, transfer, charge, delivery of goods, payment of money, or otherwise howsoever made by any bankrupt in good faith and for valuable consideration, before the date of the order of adjudication, with any

person not having at the time of the making of such disposition of property notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:

(2.) Any execution or attachment against the land of the bankrupt, executed in good faith by seizure before the date of the order of adjudication, if the person on whose account such execution or attachment was issued had not at the time of the same being so executed by seizure notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:

(3.) Any execution or attachment against the goods of any bankrupt, executed in good faith by seizure and sale before the date of the order of adjudication, if the person on whose account such execution or attachment was issued had not at the time of the same being executed by seizure and sale notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.

As to Discovery of Bankrupt's Property.

Power of Court to summon persons before it suspected of having property of bankrupt.

94. The Court may, on the application of the trustee, at any time after an order of adjudication has been made against a bankrupt, summon before it the bankrupt or his wife, or any person whatever known or suspected to have in his possession any of the estate or effects belonging to the bankrupt, or supposed to be indebted to the bankrupt, or any person whom the Court may deem capable of giving information respecting the bankrupt, his trade dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the bankrupt, his dealings or property; and if any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce such documents, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant addressed as aforesaid, cause such person to be apprehended and brought up for examination.

Examination of parties by Court.

95. The Court may examine upon oath, either by word of mouth or by written interrogatories, any person so brought before it in manner aforesaid concerning the bankrupt, his dealings or property.

Order of Court for payment of amount admitted on examination.

96. If any person on examination before the Court admit he is indebted to the bankrupt, the Court may, on the application of the

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trustee, order him to pay to the trustee, at such time and in such manner as to the Court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.

Seizure of property of bankrupt.

97. Any person acting under warrant of the Court may seize any property of the bankrupt divisible amongst his creditors under this Act, and in the bankrupt's custody or possession, or in that of any other person, and with a view to such seizure may break open any house, building, or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search warrant to any constable or person appointed by the Court, who may execute the same according to the tenour thereof.

Joint and separate Estates.

Power to present petition against one partner.

98. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present such petition against any one or more partners of such firm without including the others.

Power to dismiss petition against some respondents only.

99. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

Property of partners to be vested in same trustee.

100. Where one member of a partnership has been adjudicated a bankrupt, any other petition for adjudication against a member of the same partnership shall be filed in or transferred to the Court in which the first-mentioned petition is in course of prosecution, and, unless the Court otherwise directs, the property of such last-mentioned member shall vest in the trustee appointed in respect of the property of the first-mentioned member of the partnership, and the Court may give such directions for amalgamating the proceedings in respect of the properties of the members of the same partnership as it thinks just.

Joint creditor may prove for purpose of voting.

101. If one partner of a firm is adjudged bankrupt, any creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled

to vote thereat, but shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

Joint and separate dividends.

102. Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together; and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

Suits by trustee and bankrupt's partner.

103. Where a member of a partnership is adjudged bankrupt, the Court may authorize the trustee, with consent of the creditors, certified by a special resolution, to commence and prosecute any action or suit in the names of the trustee and of the bankrupt's partner; and any release by such partner of the debt or demand to which the action or suit relates shall be void; but notice of the application for authority to commence the action or suit shall be given to such partner, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action or suit, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

Evidence.

Evidence of proceedings at meeting of creditors.

104. The registrar, or any other person presiding at a meeting of creditors under this Act, shall cause minutes to be kept and duly entered in a book of all resolutions and proceedings of such meeting, and any such minute as aforesaid, if purporting to be signed by the president of the meeting at which such resolutions were passed or proceedings had, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every general meeting of the creditors in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had.

Evidence of proceedings in bankruptcy.

105. Any petition or copy of a petition in bankruptcy, any order, or copy of an order made by any Court having jurisdiction in bankruptcy, any certificate or copy of a certificate made by any Court having jurisdiction in bankruptcy, any deed or copy of a deed of arrangement in bankruptcy, and any other instrument or copy of an instrument, affidavit, or document made or used in the course

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of any bankruptcy proceedings, or other proceedings had under this Act, may, if any such instrument as aforesaid or copy of an instrument appears to be sealed with the seal of any Court having jurisdiction, or purports to be signed by any judge having jurisdiction in bankruptcy under this Act, be receivable in evidence in all legal proceedings whatever.

Death of witness.

106. In case of the death of the bankrupt or his wife, or of a witness whose evidence has been received by any Court in any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Bankruptcy Courts to have seals.

107. Every Court having jurisdiction in bankruptcy under this Act shall have a seal describing such Court in such manner as may be directed by order of the Lord Chancellor, and judicial notice shall be taken of such seal, and of the signature of the judge or registrar of any such Court, in all legal proceedings.

Miscellaneous.

Expenses of registrar attending meetings, &c.

108. Where a registrar under the authority of this Act attends at any place for the purpose of presiding at a meeting of creditors, or of receiving proofs, or of otherwise acting under this Act, his travelling and incidental expenses incurred in so doing, and those of any clerk or officer attending him, shall, after being settled by the Court, be paid out of the bankrupt's property, if sufficient, and otherwise shall be deemed part of the expenses of the Court of Bankruptcy.

Power of assignee to sue.

109. Any person to whom anything in action belonging to the bankrupt is assigned in pursuance of this Act may bring or defend any action or suit relating to such thing in action in his own name.

Exemption of deeds, &c. from stamp duty.

110. Every deed, conveyance, assignment, surrender, admission, or other assurance relating solely to freehold, leasehold, copyhold, or customary property, or to any mortgage, charge, or other incumbrance on, or any estate, right, or interest in any real or personal property which is part of the estate of any bankrupt, and which after the execution of such deed, conveyance, assignment, surrender, admission, or other assurance, either at law or in equity, is or remains the estate of the bankrupt or of the trustee under the bankruptcy, and every power of attorney, proxy paper, writ, order, certificate, affidavit, bond, or other instrument or writing relating solely to the property of any bankrupt, or to any proceeding under any bankruptcy, shall be exempt from stamp duty (except in respect of fees under this Act).

Computation of time.

111. Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of such limited time the same shall be taken as exclusive of the day of such date or of the happening of such event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of such limited time according to such computation, unless such last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a day appointed for public fast, humiliation, or thanksgiving, or a day on which, in pursuance of a notification by the Lord Chancellor under this Act, the Court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

Where by this Act any act or proceeding is directed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, such act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

Returns by bankruptcy officer.

112. The registrars and other officers of the courts acting in bankruptcy shall make to the comptroller in bankruptcy such returns of the business of their respective courts and offices, at such times and in such manner and form as may be prescribed by the rules of Court, and from such returns the comptroller shall, in manner prescribed by the rules of court, frame books (which shall be, under the regulations of the rules of Court, open for public information and searches), and also a general annual report to the Lord Chancellor, judicial and financial, respecting all matters within this Act, which report shall be laid before both Houses of Parliament.

Forfeiture of dividends after five years non-claim.

113. Where any dividends remain unclaimed for five years then and in every such case the same shall be deemed forfeited to the Crown, and shall be disposed of as the Commissioners of Her Majesty's Treasury direct; provided that at any time after such forfeiture the Lord Chancellor may, if he thinks fit, by reason of the disability or absence beyond seas of the person entitled to the sum forfeited, or for any other reason appearing to him sufficient, direct that the forfeiture be remitted, and the same shall be remitted accordingly, and the sum forfeited shall be repaid out of money

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provided by Parliament, and shall be distributed as it would have been if there had been no forfeiture.

Supplemental Provisions.

Removal of bankrupt from trusteeship.

114. Where a bankrupt is a trustee within the Trustee Act, 1850, section thirty-two of that Act shall have effect so as to authorize the Court of Chancery or a County Court (according to its jurisdiction under the County Courts Act, 1865,) to appoint a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears to the Court expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Construction of Acts mentioning commission of bankruptcy, &c.

115. Where in any Act of Parliament, instrument, or proceeding passed, executed, or taken before the commencement of this Act mention is made of a commission of bankruptcy or fiat in bankruptcy, the same shall be construed, with reference to the proceedings under a petition for adjudication of bankruptcy, as if a commission of or a fiat in bankruptcy had been actually issued at the time of the presentation of such petition.

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PART V.

Persons having Privilege of Parliament.

Privilege of Parliament.

Privilege of Parliament not to prevent adjudication in bankruptcy.

116. If a person having privilege of Parliament commits an act of bankruptcy he may be dealt with under this Act in like manner as if he had not such privilege.

Vacating of seat in House of Commons

117. If a person, being a member of the Commons House of Parliament, is adjudged bankrupt, he shall be and remain during one year from the date of the order of adjudication incapable of sitting and voting in that House, unless within that time either the order is annulled or the creditors who prove debts under the bankruptcy are fully paid or satisfied.

Provided that such debts (if any) as are disputed by the bankrupt shall be considered, for the purpose of this section, as paid or satisfied if within the time aforesaid he enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning such debts, together with any costs to be given in such proceedings.

Certificate of bankruptcy to be given by Court to Speaker.

118. If within the time aforesaid the order of adjudication is not annulled, and the debts of the bankrupt are not fully paid or satisfied as aforesaid, then the Court shall, immediately after the expiration of that time certify the same to the Speaker of the House of Commons, and thereupon the seat of such member shall be vacant.

119. Where the seat of a member so becomes vacant the Speaker during a recess of the House, whether by prorogation or by adjournment, shall forthwith, after receiving such certificate, cause notice thereof to be published in the London Gazette; and after the expiration of six days after such publication shall (unless the House has met before that day, or will meet on the day of the issue,) issue his warrant to the clerk of the Crown to make out a new writ for electing another member in the room of the member whose seat has so become vacant.

Speaker to issue new writ.

120. The powers of the Act of the twenty-fourth year of the reign of King George the Third, chapter twenty-six, "to repeal so "much of two Acts made in the tenth and fifteenth years of the "reign of His present Majesty as authorizes the Speaker of the "House of Commons to issue his warrant to the clerk of the Crown "for making out writs for the election of members to serve in "Parliament in the manner therein mentioned; and for substituting other provisions for the like purposes," so far as such powers enable the Speaker to nominate and appoint other persons, being members of the House of Commons, to issue warrants for the making out of new writs during the vacancy of the office of Speaker, or during his absence out of the realm, shall extend to enable him to make the like nomination and appointment for issuing warrants, under the like circumstances and conditions, for the election of a member in the room of any bankrupt member whose seat becomes vacant under this Act.

Provisions of 24 Geo. 3. sess. 2. c. 26. extended to case of bankruptcy.

PART VI.

Liquidation by Arrangement.

Regulations.

121. The following regulations shall be made with respect to the liquidation by arrangement of the affairs of the debtor:

(1.) The affairs of a debtor may be liquidated by arrangement, and his property distributed amongst his creditors without an order of adjudication in bankruptcy, on the prescribed proof being made to the registrar that such liquidation has been assented to by a majority in number and three fourths in value of all his creditors, and that a trustee has been appointed with or without a committee of inspection:

(2.) The assent of the creditors may be given either by a vote at a general meeting, or in writing, or partly in one way and partly in the other:

Regulations as to liquidation by arrangement.

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(3.) The creditors entitled to give such assent shall be such creditors only as would be qualified to vote under the Act at a first general meeting of creditors if the debtor were adjudged a bankrupt:

(4.) The certificate of the registrar in respect of the appointment of any trustee in the case of a liquidation by arrangement shall be of the same effect as a certificate of the Court to the like effect in the case of a bankruptcy:

(5.) All such property of the debtor as would, if he were made bankrupt, be divisible amongst his creditors shall, from and after the date of the appointment of a trustee, vest in such trustee under a liquidation by arrangement, and be divisible amongst the creditors, and all such settlements, conveyances, transfers, charges, payments, obligations and proceedings as would be void against the trustee in the case of a bankruptcy shall be void against the trustee in the case of liquidation by arrangement.

(6.) The date of the appointment of the trustee by the creditors shall be deemed to be the commencement of the liquidation:

(7.) The trustee under a liquidation shall have the same powers, and perform the same duties, as a trustee under a bankruptcy, and the property of the debtor be distributed in the same manner as in a bankruptcy, and with the modification herein-after mentioned all the provisions of this Act shall, so far as the same are applicable, apply to the case of a liquidation by arrangement in the same manner as if the word "bankrupt" included a debtor whose affairs are under liquidation, and the word "bankruptcy" included liquidation by arrangement; and in construing such provisions the appointment of a trustee under a liquidation shall according to circumstances be deemed to be equivalent to and a substitute for the presentation of a petition in bankruptcy, or the service of such petition or an order of adjudication in bankruptcy.

(8.) The creditors at their first or any general meeting may prescribe the bank into which the trustee is to pay any monies received by him, and the sum which he may retain in his hands:

(9.) The provisions of this Act with respect to the close of the bankruptcy, discharge of a bankrupt, to the release of the trustee, and to the audit of accounts by the comptroller

shall not apply in the case of a debtor whose affairs are under liquidation by arrangement; but the close of the liquidation may be fixed, and the discharge of the debtor and the release of the trustee may be granted by a special resolution of the creditors in general meeting, and the accounts may be audited in pursuance of such resolution, at such time and in such manner and upon such terms and conditions as the creditors think fit:

(10.) An abstract of the provisions of every arrangement under this section shall be filed in Court, and shall be entered in a register to be kept for the purpose:

(11.) The trustee shall report to the registrar the discharge of the debtor, and a certificate of such discharge given by the registrar shall have the same effect as an order of discharge given to a bankrupt under this Act:

(12.) Rules of court may be made in relation to proceedings on the occasion of liquidation by arrangement in the same manner and to the same extent and of the same authority as in respect of proceedings in bankruptcy:

(13.) If it appear to the Court on satisfactory evidence that the liquidation by arrangement cannot, in consequence of legal difficulties, or of there being no trustee for the time being, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, the Court may adjudge the debtor a bankrupt, and proceedings may be had accordingly:

(14.) Where no committee of inspection is appointed the trustee may act on his own discretion in cases where he would otherwise have been bound to refer to such committee.

PART VII.

Composition with Creditors.

Regulations.

122. The creditors of a debtor unable to pay his debts may, without any proceedings in bankruptcy, by an extraordinary resolution, resolve that a composition shall be accepted in satisfaction of the debts due to them from the debtor.

An extraordinary resolution of creditors shall be a resolution which has been passed by a majority in number and three fourths in value of the creditors of the debtor, assembled at a general meeting to be held in the manner prescribed, of which notice has

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been given in the prescribed manner, and has been confirmed by a majority in number and value of the creditors assembled at a subsequent general meeting, of which notice has been given in the prescribed manner, and held at an interval of not less than seven days nor more than fourteen days from the date of the meeting at which such resolution was first passed.

The debtor, unless prevented by sickness or other cause satisfactory to such meetings, shall be present at both the meetings at which the extraordinary resolution is passed, and shall answer any inquiries made of him, and he, or if he is so prevented from being at such meetings some one on his behalf, shall produce to the meetings a statement showing the whole of his debts, and the names and addresses of the creditors to whom such debts respectively are due.

The extraordinary resolution, together with the statement of the debtor as to his debts, shall be presented to the registrar, and it shall be his duty to inquire whether such resolution has been passed in manner directed by this section, but if satisfied that it has been so passed he shall forthwith register the same, but until such registration has taken place such resolution shall be of no validity.

The provisions of a composition accepted by an extraordinary resolution in pursuance of this section shall be binding on all the creditors whose names and addresses, and the amount of the debts due to whom, are shown in the statement of the debtor, produced to the meetings at which the resolution has passed, but shall not affect or prejudice the rights of any other creditors.

The provisions of any composition made in pursuance of this section may be enforced by the Court on a motion made in a summary manner by any person interested, and any disobedience of the order of the Court made on such motion shall be deemed to be a contempt of Court.

Rules of Court may be made in relation to proceedings on the occasion of the acceptance of a composition by an extraordinary resolution of creditors in the same manner and to the same extent and of the same authority as in respect of proceedings in bankruptcy.

If it appear to the Court on satisfactory evidence that a composition under this section cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, the Court may adjudge the debtor a bankrupt, and proceedings may be had accordingly.

PART VIII.

Temporary Provisions.

London Bankruptcy Court.

Commissioners of London Bankruptcy Court to cease to hold offices.

123. Such one of the present Commissioners of the London Bankruptcy Court as may be chosen by Her Majesty shall be the first Chief Judge in the London Bankruptcy Court as constituted under this Act, and shall, as to tenure of office, salary, pension, and all other privileges except his title, continue in the same position in all respects as if his office had not been abolished by this Act; but, save as aforesaid, from and after the commencement of this Act the present commissioners of the London Bankruptcy Court shall cease to hold their offices.

Clause M. Transfer of officers of existing Court to new Court of Bankruptcy.

124. The chief registrar, registrars, accountant in bankruptcy, taxing master, official assignees, messengers, and all other officers holding offices in the existing London Bankruptcy Court herein called the Old London Bankruptcy at the commencement of this Act, shall, unless the Lord Chancellor otherwise directs, be attached to the London Bankruptcy Court as constituted under this Act, herein called the New London Bankruptcy Court. The officers so attached shall have the same relative rank, hold their offices by the same tenure and upon the same terms and conditions, and receive the same salaries as heretofore. The Lord Chancellor may by order make provision for winding up such portion of the business pending in the said old Bankruptcy Court as cannot conveniently be transferred to the new Bankruptcy Court, and for transferring to such last-mentioned Court any business capable of being conveniently transferred, and every officer attached to such last-mentioned Court shall conform to any order so made by the Lord Chancellor. The Lord Chancellor may by order distribute the business to be performed in the said new Bankruptcy Court amongst the several officers attached thereto in such manner as he may think just, and such officers shall perform such duties in relation to such business as may be directed by the Lord Chancellor, with this qualification that the duties required to be performed by them shall be the same or duties analogous to those which they have hitherto performed in the old Bankruptcy Court. The Lord Chancellor may at any time by order release from the performance of any duties in the new Bankruptcy Court any officer of the old Bankruptcy Court whose services he may deem unnecessary, and the office held by such person shall be deemed to be abolished unless it be an office required to be continued in pursuance of the provisions of this Act relating to

A.D. 1869.

Part VIII.

Temporary Provisions.

the constitution of the new Bankruptcy Court. Any person so released shall, whether his office be altogether abolished or not, be entitled to compensation in the same manner in all respects as if his office had been abolished.

Clause R. Persons to be selected whose office is abolished by Act.

125. Every person appointed to any office or employment created by this Act shall in the first instance be selected from the persons whose office or employment is abolished by this Act, unless, in the opinion of the Lord Chancellor, none of the last-mentioned persons are fit for such office or employment.

Clause S. Subsequent appointments to be notified to the Treasury.

126. When any subsequent vacancy occurs in any office or employment created by this Act, and such vacancy is not filled up by the appointment of a person in the receipt of compensation under this Act, no permanent appointment shall be made until notice of the vacancy has been given to the Treasury, and until the Lord Chancellor has determined that no person in receipt of compensation under this Act is fit for such office or employment.

Clause T. Nominations to be in the gift of the Lord Chancellor.

127. The Lord Chancellor may nominate or appoint any commissioner whose office has been abolished under this Act to some other judicial office for which he may be deemed fit by the Lord Chancellor, and to which he is entitled to nominate or appoint, and may nominate or appoint any other person whose office or employment has been abolished by this Act, whom he may deem fit to fill a vacancy in any office or employment created by this Act, or in any office or employment to which he is entitled to nominate or appoint; and if the commissioner or other person so nominated or appointed declines to accept such office or employment, or neglects to execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to the compensation or superannuation allowance which may have been granted to him, or which he might otherwise be entitled to receive, unless he shall satisfy the Lord Chancellor that the office is one not suitable to his position, regard being had to his former office.

Country District Courts of Bankruptcy.

Abolition of Country District Courts of Bankruptcy.

128. From and after the commencement of this Act the Country District Courts of Bankruptcy shall be abolished, and the commissioners, registrars, official assignees, messengers, ushers, clerks, and officers of the said Courts respectively shall cease to hold their offices.

Such part of the business pending in any Country District Court of Bankruptcy as the Lord Chancellor thinks fit shall be disposed of by the registrar of that Court, (who shall for that purpose continue to have and discharge all his powers and authorities, rights

and duties,) and the residue of that business shall be transferred to the London Bankruptcy Court, or to such County Court or County Courts, as the Lord Chancellor, by order before or after its abolition, thinks fit to direct; but, subject as aforesaid, the office of any registrar in such Country District Court shall be abolished.

All books, papers, documents, and money in the custody or control of any such commissioners, registrars, official assignees, messengers, ushers, clerks, and officers, as such, shall be transferred to such Courts or persons as the Lord Chancellor may direct. The Lord Chancellor shall also by order declare the person or persons in whom any vested in any official assignee or other officer as such of any Country District Court hereby abolished is to vest, and such property shall vest accordingly.

Compensation to clerks.

129. The Commissioners of Her Majesty's Treasury may, on the petition of any person whose office or employment is abolished by or under this Act, on the commencement of this Act or on any other event, and whose compensation in respect of the abolition of his office or employment is not otherwise provided for by this Act, inquire whether any, and, if any, what compensation ought to be made to the petitioner, regard being had to the conditions on which his appointment was made, the nature of his office or employment, and the duration of his service; provided that when any such person held his office during good behaviour, or during good behaviour subject only to removal by the Lord Chancellor by order, for some sufficient reason to be stated in such order, the Lord Chancellor may, with the approval of the Commissioners of the Treasury, award under special circumstances an amount equal to the salary of any such person; and in every other case the sum awarded shall not be less than two thirds of the salary of such person; and if they think that his claim to compensation is established, may award to him, out of moneys to be provided by Parliament, such compensation, by annuity or otherwise, as under the circumstances of the case they think just and reasonable.

Acceptance of public employment by annuitants.

130. If any person to whom a compensation annuity is granted under this Act accepts any public employment, he shall, during the continuance of that employment, receive only so much (if any) of that annuity as, with the remuneration of that employment, will amount to a sum not exceeding the salary or emoluments in respect of the loss whereof the annuity was awarded, and if the remuneration of that employment is equal to or greater than such salary or emoluments the annuity shall be suspended so long as he received that remuneration.

SCHEDULES.

SCHEDULE I.

Description of Traders.

Alum makers, apothecaries, auctioneers, bankers, bleachers, brokers, brickmakers, builders, calenderers, carpenters, carriers, cattle or sheep salesmen, coach proprietors, cowkeepers, dyers, fullers, keepers of inns, taverns, hotels, or coffee houses, lime-burners, livery stable keepers, market gardeners, millers, packers, printers, sharebrokers, shipowners, shipwrights, stockbrokers, stock-jobbers, victuallers, warehousemen, wharfingers, persons using the trade or profession of a scrivener, receiving other men's moneys or estates into their trust or custody, persons insuring ships or their freight or other matters against perils of the sea, persons using the trade of merchandise by way of bargaining, exchange, bartering, commission, consignment, or otherwise, in gross or by retail, and persons who, either for themselves or as agents or factors for others, seek their living by buying and selling or buying and letting for hire goods or commodities, or by the workmanship or the conversion of goods or commodities: but a farmer, grazier, common labourer, or workman for hire shall not, nor shall a member of any partnership, association, or company which cannot be adjudged bankrupt under this Act, be deemed as such a trader for the purposes of this Act.

SCHEDULE II.

List of Metropolitan County Courts.

The Bloomsbury County Court of Middlesex.
The Bow County Court of Middlesex.
The Brompton County Court of Middlesex.
The Clerkenwell County Court of Middlesex.
The Lambeth County Court of Surrey.
The Marylebone County Court of Middlesex.
The Shoreditch County Court of Middlesex.
The Southwark County Court of Surrey.
The Westminster County Court of Middlesex.
The Whitechapel County Court of Middlesex.

Bankruptcy.

A

B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

To consolidate and amend the Law of Bankruptcy.

(*Prepared and brought in by Mr. Attorney General and Mr. Solicitor General.*)

Ordered, by The House of Commons, *to be Printed,* 22 *June* 1869.

[Bill 169.]

Under 7 oz.

LORDS AMENDMENTS

TO

THE BANKRUPTCY BILL.

Note.—*The page and line refer to the Bill* (154.) *as first printed by the Lords.*

Page 1.

Line 30, after ("corporate") insert ("trader shall for the purposes of this Act mean the several persons in that behalf "mentioned in the first schedule to this Act annexed")

Page 2.

Line 1, leave out ("corporate or registered") and insert ("liable to be wound up")

Line 13, after ("herein-after") insert ("deemed to be "and")

Line 16, after ("creditors") insert ("generally")

Line 20, after ("debtor") insert ("being a trader")

Line 24, leave out ("his")

Line 31, leave out from ("goods") to the end of the paragraph.

Lines 34 and 35, leave out ("a demand under the hand of the "creditor") and insert ("a debtor's summons")

Line 36, leave out from ("pounds") to ("and") in line 39.

Line 41, leave out ("demand") and insert ("summons")

Line 43, leave out ("to the reasonable satisfaction of the "creditor")

Page 3.

Line 5, after ("sum") insert ("due at law or in equity")

Line 8, leave out from ("bankrupt") to the end of the clause, and insert ("or unless the petitioner is willing to give an "estimate of the value of his security, in which latter case

" he may be admitted as a petitioning creditor to the extent
" of the balance of the debt due to him after deducting the
" value so estimated, but he shall, on an application being
" made by the trustee within the prescribed time after the
" date of adjudication, give up his security to such trustee
" for the benefit of the creditors upon payment of such
" estimated value"), also insert clause A.

CLAUSE A. Proceedings in relation to a debtor's summons.

A debtor's summons may be granted by the court on a creditor proving to its satisfaction that a debt sufficient to support a petition in bankruptcy is due to him from the person against whom the summons is sought, and that the creditor has failed to obtain payment of his debt, after using reasonable efforts to do so. The summons shall be in the prescribed form, resembling, as nearly as circumstances admit, a writ issued by one of Her Majesty's superior courts. It shall state that in the event of the debtor failing to pay the sum specified in the summons, or to compound for the same to the satisfaction of the creditor, a petition may be presented against him, praying that he may be adjudged a bankrupt. The summons shall have an endorsement thereon to the like effect, or such other prescribed endorsement as may be best calculated to indicate to the debtor the nature of the document served upon him, and the consequences of inattention to the requisitions therein made.

Any debtor served with a debtor's summons may apply to the court, in the prescribed manner and within the prescribed time, to dismiss such summons, on the ground that he is not indebted to the creditor serving such summons, or that he is not indebted to such amount as will justify such creditor in presenting a bankruptcy petition against him; and the court may dismiss the summons with or without costs, if satisfied with the allegations made by the debtor, or it may, upon such security (if any) being given as the court may require for payment to the creditor of the debt alleged by him to be due, and the costs of establishing such debt, stay all proceedings on the summons for such time as will be required for the trial of the question relating to such debt.

Line 19, leave out ("respondent") and insert ("debtor")

Line 31, leave out from ("debt") to the end of the paragraph.

Line 36, } Leave out ("forthwith")
Line 41, }

Page 4.

Line 4, after ("been") insert ("duly")

Line 12, leave out ("in the course of the bankruptcy pro-
" ceedings")

Line 14, after ("adjudication") insert ("but the bankruptcy "shall not relate to any prior act of bankruptcy, unless it "be that at the time of committing such prior Act the "bankrupt was indebted to some creditor or creditors in a "sum or sums sufficient to support a petition in bankruptcy, "and unless such debt or debts are still remaining due at "the time of the adjudication")

Line 15, leave out ("has been") and insert ("shall be")

Line 17, after ("in") insert ("the")

Line 26, after ("debtor") insert ("in respect of any debt "proveable in bankruptcy, or it may allow such proceedings, "whether in progress at the commencement of the bank-"ruptcy or commenced during its continuance, to proceed")

Line 28, after ("receiver") insert ("or manager")

Line 29, after ("property") insert ("or business")

Line 30, leave out ("of such property") and insert ("thereof")

Lines 30 and 31, leave out ("on the application of any "creditor")

Line 32, after ("property") insert ("or business")

Line 35, leave out ("herein-after") and insert ("herein")

Line 38, after ("shall") insert ("as soon as may be")

Page 5.

Line 1, after ("may") insert ("from time to time")

Line 3, leave out ("inspectors") and insert ("committee of "inspection herein-after mentioned")

Line 4, after ("shall") insert ("when they appoint a trustee") and leave out the first ("the") and insert ("what"), and after ("security") insert ("is"), and after ("given") insert ("and to whom")

Line 6, leave out ("shall") and insert ("may")

Leave out lines 21 and 22.

Line 24, Line 25, after ("apparel") insert ("and bedding")

Page 6.

Line 14, after ("unless") insert ("at or")

Line 15, leave out ("thereto") and insert ("to the meeting")

Line 30, after ("estate") insert ("or any part thereof")

Line 38,
Lines 41 and 42, } leave out (" by the creditors ")

Line 43, leave out (" so ")

Page 7.

Line 8, leave out (" by the creditors ")

Line 28, after (" creditors ") insert (" and debtors "), and leave out (" their ") and insert (" the ")

Line 29, after (" debts ") insert ("due to and from them respec- " tively ")

Line 39, after (" bankrupt ") insert (" wilfully ")

Page 8.

Line 7, after (" by ") insert (" resolution of ")

Line 9, after (" directions ") insert (" so ")

Line 12, after (" over ") insert (" at least ")

Line 14, after (" of ") insert (" the ")

Page 9.

Line 23, leave out (" may ") and insert (" shall "), and leave out (" so ")

Line 24, leave out (" either ")

Lines 24 and 25, leave out (" or in the name of the bankrupt ")

Lines 25 and 26, leave out (" if he institute the same in his " official name ")

Line 29, leave out (" after his appointment ")

Lines 35 and 36, leave out (" person stating himself, in writing, " to be a ")

Line 36, after (" may ") insert (" subject to the control of the " court ")

Page 10.

Lines 10 and, 11 leave out (" so far as regards ") and insert (" to the person entitled on the determination of ")

Line 11, leave out from (" bankrupt ") to (" but ") in line 13.

Line 21, after (" prove ") insert (" the same as ")

Page 11.

Line 18, after (" him ") insert (" which receipt shall ")

Line 19, leave out (" discharging ") and insert (" discharge ")

Leave out lines 24 and 25.

Line 31, leave out ("a special resolution of")

Line 32, leave out from ("inspection") to ("do") in line 33.

Line 38, before ("compromise") insert ("refer any dispute to "arbitration")

Page 12.

Line 43, after ("bankruptcy") insert Clause B.

CLAUSE B. Trustee, if a solicitor, may be paid for services.

A trustee shall not, without the consent of the committee of inspection, employ a solicitor or other agent; but where the trustee is himself a solicitor he may contract to be paid a certain sum by way of per-centage or otherwise as a remuneration for his services as trustee, including all professional services, and any such contract shall, notwithstanding any law to the contrary, be lawful.

Page 13.

Line 19, after ("bankruptcy") insert ("and no person having "notice of any act of bankruptcy available for adjudication "against the bankrupt shall prove for any debt or liability "contracted by the bankrupt subsequently to the date of his "so having notice")

Lines 21 and 22, leave out ("commencement of the bank- "ruptcy") and insert ("date of the order of adjudica- "tion")

Line 24, leave out ("its commencement") and insert ("the "date of the order of adjudication")

Page 14.

Leave out clause 30.

Line 32, leave out ("six") and insert ("twelve")

Line 37, Line 40 } Leave out ("due to") and insert ("of")

Page 15.

Line 9, leave out ("he") and insert ("such trustee")

Line 27, leave out ("half")

Lines 28 and 29, leave out ("commencement of the bank- "ruptcy") and insert ("date of the order of adjudication")

Page 16.

Line 8, leave out ("an") and insert ("such"), and after ("allowance") insert ("as may be approved by the "creditors")

Line 13, after ("person") insert ("proving or claiming to "prove a debt under his bankruptcy")

Line 29, after ("holding") insert ("such"), and after ("security") insert ("as aforesaid")

Line 32, leave out from ("when") to ("declare") in line 32 and insert ("the committee of inspection determines")

Page 18.

Line 11, after ("bankruptcy") insert ("or the failure to pay "ten shillings in the pound")

Line 12, leave out ("unavoidable misfortune") and insert ("circumstances for which the bankrupt cannot justly be "held responsible")

Line 25, after ("shall") insert ("not"), and after ("from") insert ("any debt or liability incurred by means of any fraud "or breach of trust, nor from any debt or liability whereof "he has obtained forbearance by any fraud; but it shall "release the bankrupt from")

Line 26, after ("all") insert ("other")

Line 36, leave out from ("therefrom") to ("An") in line 40.

Page 20.

Line 41, and page 21, line 1, leave out ("assistance by way of "clerks, messengers, and other")

Page 21.

Line 1, after ("officers") insert ("clerks and servants")

Line 3, after ("The") insert ("officers"), and leave out ("messengers"), and leave out ("other officers") and insert ("servants")

Line 30, after ("bankruptcy") insert ("He may also direct a "local investigation to be made of the books and vouchers "of the trustees")

Page 22.

Line 33, after ("officers") insert ("thereof")

Page 23.

Line 20, after ("accordingly") insert ("in manner pre-
" scribed")

Line 22, after ("may") insert ("subject and in accordance
" with the rules of court for the time being in force")

Line 24, leave out from ("him") to the end of the clause.

Line 42, after ("court") insert ("or in any prosecution of a
" bankrupt by order of such court")

Page 26.

Line 6, after ("executed") insert ("in manner prescribed, or")

Page 27.

Line 3, after ("Act") insert Clause C.

Change of Jurisdiction by Chancellor.

CLAUSE C. Change of jurisdiction by Chancellor.

Notwithstanding anything in this Act contained, the Lord Chancellor may from time to time, by order under his hand, exclude any County Court from having jurisdiction in bankruptcy, and for the purposes of bankruptcy jurisdiction may attach its district or any part thereof to any other County Court or Courts, and may from time to time revoke or alter any order so made.

Line 8, after ("namely") insert ("(1.) Every bankruptcy
" petition shall be accompanied by an affidavit of the peti-
" tioner in the prescribed form, verifying the statements
" contained in such petition")

Line 18, leave out from ("court") to the end of the para-
graph.

Page 28.

Line 11, after ("stayed") insert ("by reason that negotiations
" are pending for the liquidation of the affairs of the bank-
" rupt by arrangement, or for the acceptance of a com-
" position by the creditors, in pursuance of the provisions
" herein-after contained, or on proof to its satisfaction of any
" other sufficient reason for staying the same")

Page 29.

Line 17, leave out ("or some other person appointed by the
" court")

Line 41, leave out from ("office") to ("The") in page 30,
line 6.

Page 30.

Line 15, leave out from ("court") to the end of the paragraph.

Line 21, leave out from ("inspection") to the end of the paragraph.

Line 28, leave out ("seven days previous") and insert ("the "prescribed")

Line 35, after ("body") insert ("and where the number ot "members of the committee of inspection is for the time "being less than five, the creditors may increase that "number, so that it do not exceed five")

Page 31.

Line 11, leave out ("shall") and insert ("may")

Line 11 and line 12, leave out ("for special reasons")

Line 14, leave out ("by the creditors")

Line 28, leave out ("person named in such warrant") and "insert ("prescribed officer of the court")

Line 30, after ("kept") insert ("as prescribed")

Page 32.

Line 15, after ("execution") insert ("in respect of a judgment "for a sum exceeding fifty pounds")

Line 38, after ("bankruptcy") insert ("except a sequestration issued before the date of the order of adjudication "by or on behalf of a person who at the time of the issue "thereof had not notice of an act of bankruptcy committed "by the bankrupt, and available against him for adjudication")

Page 33.

Line 16, after ("salary") insert ("or income")

Line 17, after ("shall") insert ("from time to time")

Line 18, after ("salary") insert ("or income")

Line 22, after ("property") insert ("made by a trader")

Page 34.

Line 28, leave out ("depositor") and insert ("depository")

Page 36.

Lines 23 and 24, leave out ("person appointed by") and insert ("prescribed officer of")

Page 37.

Line 35, leave out ("president") and insert ("chairman")

Page 38.

Lines 31 and 32, leave out ("of bankruptcy")

Line 35, after ("name") insert clause (D.)

CLAUSE D. Saving as to joint contracts.

Where a bankrupt is a contractor in respect of any contract jointly with any other person or persons, such person or persons may sue or be sued in respect of such contract without the joinder of the bankrupt.

Page 40.

Line 9, leave out from the first ("court") to ("to") in line 10.

Line 14, after ("accordingly") insert clause (E.)

CLAUSE E. Saving as to debts contracted prior to August 1861.

No person, not being a trader, shall be adjudged a bankrupt in respect of a debt contracted before the date of the passing of the Bankruptcy Act, 1861."

Page 41.

Line 33, leave out from ("debtor") to ("The") in page 42, line 24, and insert—

(1.) A debtor unable to pay his debts may summon a general meeting of his creditors, and such meeting may, by a special resolution as defined by this Act, declare that the affairs of the debtor are to be liquidated by arrangement and not in bankruptcy, and may at that or some subsequent meeting, held at an interval of not more than a week, appoint a trustee, with or without a committee of inspection.

(2.) All the provisions of this Act relating to a first meeting of creditors, and to subsequent meetings of creditors in the case of a bankruptcy, including the description of creditors entitled to vote at such meetings, and the debts in respect of which they are entitled to vote, shall apply respectively to the first meeting of creditors, and to subsequent meetings of creditors, for the purposes of this section, subject to the following modifications:

(*a.*) That every such meeting shall be presided over by such chairman as the meeting may elect; and

(*b.*) That no creditor shall be entitled to vote until he has proved by a statutory declaration a debt provable in bankruptcy to be due to him, and the amount of such debt, with any prescribed particulars; and any person wilfully making a false declaration in relation to such debt shall be guilty of a misdemeanor.

(3.) The debtor, unless prevented by sickness or other cause satisfactory to such meeting, shall be present at the meeting at which the special resolution is passed, and shall answer any inquiries made of him, and he, or if he is so prevented from being at such meeting some one on his behalf, shall produce to the meeting a statement showing the whole of his assets and debts, and the names and addresses of the creditors to whom his debts are due.

(4.) The special resolution, together with the statement of the assets and debts of the debtor, and the name of the trustee appointed, and of the members, if any, of the committee of inspection, shall be presented to the registrar, and it shall be his duty to inquire whether such resolution has been passed in manner directed by this section, but if satisfied that it was so passed, and that a trustee has been appointed with or without a committee of inspection, he shall forthwith register the resolution, and the liquidation by arrangement shall be deemed to have commenced as from the date of the appointment of the trustee.

(5.) All such property of the debtor as would, if he were made bankrupt, be divisible amongst his creditors shall, from and after the date of the appointment of a trustee, vest in such trustee under a liquidation by arrangement, and be divisible amongst the creditors, and all such settlements, conveyances, transfers, charges, payments, obligations, and proceedings as would be void against the trustee in the case of a bankruptcy shall be void against the trustee in the case of liquidation by arrangement.

(6.) The certificate of the registrar in respect of the appointment of any trustee in the case of a liquidation by arrangement shall be of the same effect as a certificate of the court to the like effect in the case of a bankruptcy.

Page 42.

Line 26, after (" debtor ") insert (" shall ")

Page 43.

Line 11, leave out from ("fit") to ("The") in line 15.

Line 32, after ("Committee") insert—

(14.) In calculating a majority on a special resolution for the purposes of this section, creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value, but not in the majority in number.

Page 44.

Line 8, after ("passed") insert—

In calculating a majority for the purposes of a composition under this section, creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value, but not in the majority in number, and the value of the debts of secured creditors shall, as nearly as circumstances admit, be estimated in the same way, and the same description of creditors shall be entitled to vote at such general meetings as in bankruptcy.

Line 14, } After ("his") insert ("assets and")
Line 17, }

Line 19, leave out ("but") and insert ("and")

Line 20, leave out ("same") and insert ("resolution and "statement of assets and debts")

Line 21, after ("validity") insert ("and any creditor of the "debtor may inspect such statement at prescribed times, and on "payment of such fee, if any, as may be prescribed")

After line 21, insert as a separate paragraph:

The creditors may, by an extraordinary resolution, add to or vary the provisions of any composition previously accepted by them, without prejudice to any persons taking interests under such provisions who do not assent to such addition or variation; and any such extraordinary resolution shall be presented to the registrar in the same manner and with the same consequences as the extraordinary resolution by which the composition was accepted in the first instance.

Line 27, after ("creditors") insert—

Where a debt arises on a bill of exchange or promissory note, if the debtor is ignorant of the holder of any such bill of exchange or promissory note, he shall be required to state the amount of such bill or note, the date on which it falls due, the name of the acceptor or person to whom it is payable, and any other particulars within

his knowledge respecting the same, and the insertion of such articulars shall be deemed a sufficient description of the creditor of the debtor in respect of such debt, and any mistake made inadvertently by a debtor in the statement of his debts may be corrected after the prescribed notice has been given, with the consent of a general meeting of his creditors.

Line 42, after ("accordingly") insert as a separate section:

CLAUSE F. Registration of resolutions of creditors conclusive in certain cases

The registration by the registrar of a special resolution of the creditors on the occasion of a liquidation by arrangement under part six of this Act, or of an extraordinary resolution of the creditors on the occasion of a composition under the seventh part of this Act, shall, in the absence of fraud, be conclusive evidence that such resolutions respectively were duly passed and all the requisitions of this Act in respect of such resolutions complied with.

Page 45.

Line 14, leave out ("master") and insert ("masters")

Line 15, after ("offices") insert ("or employed")

Page 47.

Line 13, after ("office") insert ("of equal or greater salary")

Lines 17 and 18, leave out ("or in any office or employ- "ment") and insert ("of equal or greater salary")

Line 18, after ("appoint") insert ("provided that the person "appointed be in the receipt of compensation or superan- "nuation allowance equal to the amount of his salary at the "time of the abolition of his office")

LORDS AMENDMENTS

TO

THE BANKRUPTCY BILL.

Ordered, by The House of Commons, *to be printed*,
29 *July* 1869.

[Bill 249.]

Under 2 *oz.*

A

BILL

FOR

Making better provision for the erection of a Lighthouse on the Great Basses Rock in the Colony of Ceylon, and for other purposes connected therewith. A.D. 1869.

WHEREAS by the Merchant Shipping Amendment Act, 1855, the Commissioners of Her Majesty's Treasury and the Public Works Loan Commissioners are authorized to advance sums of money for the purpose of constructing a lighthouse on or near the coasts of any British possession:

And whereas a considerable sum has been advanced by the Commissioners of Her Majesty's Treasury for the establishment of a lightship near the Little Basses Rock, off the coast of Ceylon, part of which has been repaid out of the dues received in respect of such lightship:

And whereas it is expedient to make further provision for the exercise of the said powers for the purpose of the construction of a lighthouse on the Great Basses Rock near the Little Basses Rock:

And whereas the Secretary of State in Council of India has agreed to guarantee one half of a loan for the purpose of such lighthouse:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The Basses Lights Act, 1869." Short title.

2. This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Merchant Shipping Amendment Act, 1855, in this Act referred to as "the principal Acts." Construction of Act.

3. For the purpose of constructing a lighthouse on the said Great Basses Rock, the Public Works Loan Commissioners are hereby required to advance, in pursuance of the principal Acts, out of the moneys at their disposal which are applicable for advances Loan by Public Works Loan Commissioners.

A.D. 1869.

under The Harbours and Passing Tolls, &c., Act, 1861, a sum or sums not exceeding in the whole *seventy thousand pounds* at interest at the rate of *three and a quarter* per cent. per annum, such sums to be repayable within a period not exceeding *fifty* years, and to be secured on the fund formed out of the dues mentioned in this Act.

Guarantee of loan.

4. The Commissioners of Her Majesty's Treasury are hereby authorized to guarantee jointly with the Secretary of State in Council of India the principal and interest of the advances made by the Public Works Loan Commissioners for the purpose aforesaid, not exceeding the sum of *seventy thousand* pounds.

The said Commissioners are hereby authorized to cause to be issued from time to time, out of the growing produce of the Consolidated Fund, such sums of money as may at any time be required to be paid to fulfil the guarantee in respect of one moiety of the said principal and interest.

Amount of dues.

5. The Commissioners of Her Majesty's Treasury shall not give any guarantee under this Act until the dues to be paid in respect of the Great Basses Lighthouse and Little Basses Lightship have been fixed by Order in Council at such rate as they may think sufficient.

So long as such guarantee is in force, the said dues shall not be altered without the consent of the Commissioners of Her Majesty's Treasury and the Secretary of State in Council of India.

So long as any money is due to the Commissioners of Her Majesty's Treasury in respect of the sums advanced for the Little Basses Lightship the said dues shall not be altered without the consent of those Commissioners.

Accounts to be laid before Parliament.

6. The Commissioners of Her Majesty's Treasury and the Secretary of State in Council of India shall respectively cause to be prepared and laid before both Houses of Parliament an account of all sums issued and paid respectively for the purposes of the guarantee under this Act within three months after the same are so issued or paid, if Parliament be then sitting, or, if Parliament be not sitting, then within fourteen days after the then next meeting of Parliament.

Application of dues of Great and Little Basses Lights.

7. The dues levied under the authority of the principal Acts in respect of the lighthouse on the Great Basses Rock, and in respect of the lightship near the Little Basses Rock, after deducting any expenses incurred in collecting the same, shall form one fund, which shall be applied for the purpose of paying the expenses incurred in erecting and maintaining such lighthouse and lightship, and for no

other purpose whatever, and the priority according to which such expenses shall be paid shall (so far as conveniently may be, and subject to any other arrangement made with the consent of the guarantors under this Act) be as follows :

(1.) The expenses of maintaining such lighthouse and lightship :

(2.) Then the interest on the unpaid balance of the sum advanced by the Commissioners of Her Majesty's Treasury for the Little Basses lightship, at the rate of *three and a quarter* per cent. per annum, and the interest on the unpaid balance of the loan under this Act pari passu :

(3.) Then the amount for the time being required for repaying the principal of the said advances and loan respectively pari passu :

(4.) Then the amount required for repaying pari passu to the Commissioners of Her Majesty's Treasury and the Secretary of State in Council of India all sums which they may respectively have paid on account of the guarantee under this Act, with interest on such sums after the rate of *five* per cent. per annum from the time at which they were paid.

Basses Lights, Ceylon.

A

BILL

For making better provision for the erection of a Lighthouse on the Great Basses Rock in the Colony of Ceylon, and for other purposes connected therewith.

(*Prepared and brought in by Mr. Dodson, Mr. Chancellor of the Exchequer, and Mr. Grant Duff.*)

Ordered, by The House of Commons, *to be Printed* 19 *July* 1869.

[Bill 224.]

Under 1 *oz.*

A

B I L L

TO

Amend the Law for licensing Beerhouses, and to make certain Alterations with respect to the Sale by retail of Beer, Cider, and Wine. A.D. 1869.

WHEREAS by the Acts relating to the general sale of beer and cider by retail in England, (that is to say,)

(1.) An Act of the session of the last year of the reign of King George the Fourth and the first year of the reign of King William the Fourth, chapter sixty-four, intituled "An Act "to permit the general sale of beer and cider by retail in "England;" 11 G. 4. & 1 W. 4. c. 64.

(2.) An Act of the session of the fourth and fifth years of the reign of King William the Fourth, chapter eighty-five, intituled "An Act to amend an Act passed in the first "year of His present Majesty, to permit the general sale "of beer and cider by retail in England;" 4 & 5 W. 4. c. 85.

(3.) An Act of the session of the third and fourth years of the reign of Her present Majesty, chapter sixty-one, intituled "An Act to amend the Acts relating to the general sale "of beer and cider by retail in England," 3 & 4 Vict. c. 61.

provision is made for the grant of licences by the excise for the sale by retail of beer and cider upon the terms and conditions therein specified:

And whereas by an Act of the session of the twenty-sixth and twenty-seventh years of the reign of Her present Majesty, chapter thirty-three, intituled "An Act for granting to Her Majesty certain "duties of inland revenue, and to amend the laws relating to the "inland revenue," it is enacted, that any person who after the passing of that Act has taken out an excise licence to sell strong beer in casks containing not less than four and a half gallons, or in not less than two dozen reputed quart bottles, at one time, to be drunk or consumed elsewhere than on his premises, may take out an additional licence on payment of the excise duties therein mentioned, and that the same shall authorize such person to sell beer in any less quantity and in any other manner than as aforesaid, 26 & 27 Vict. c. 33. s. 1.

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but not to be drunk or consumed on the premises where sold, and that such additional licence shall be granted without the production of any certificate, or the possession of any other qualification than the licence therein first mentioned:

23 Vict. c. 27.

And whereas provision is made for the grant of licences by the excise for the sale of wine by retail, and for other purposes, by an Act of the session of the twenty-third year of the reign of Her present Majesty, chapter twenty-seven, intituled "An Act for "granting to Her Majesty certain duties on wine licences and "refreshment houses, and for regulating the licensing of refreshment "houses, and the granting of wine licences:"

And whereas it is expedient to make better provision with regard to the granting of the licences herein-before mentioned, and for regulating the houses and shops in which beer, cider, and wine are sold by retail:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Application of Act.

1. This Act shall not apply to Scotland or Ireland, or to any place within the City of London or the liberties thereof, or within the metropolitan police district.

Definition of beer and cider.

2. For the purposes of this Act the term "beer" shall include ale and porter, and the term "cider" shall include perry.

Short title of Act.

3. This Act may be cited as "The Wine and Beerhouse Act, 1869."

Commencement of Act.

4. This Act shall not come into operation until *the first of September* one thousand eight hundred and sixty-nine, which date is herein-after referred to as the commencement of this Act.

Retail licences not to be granted without certificate.

5. From and after the commencement of this Act no licence or renewal of a licence for the sale by retail of beer, cider, or wine under the provisions of any of the said recited Acts shall (save as is in this Act otherwise provided) be granted except upon the production and in pursuance of the authority of a certificate granted under this Act.

Any licence granted in contravention of this enactment shall be void.

Certificates by whom granted.

6. Certificates under this Act shall be granted by the justices assembled at the general annual licensing meeting held in pursuance of an Act of the session of the ninth year of the reign of King George the Fourth, chapter sixty-one, intituled "An Act to

" regulate the granting of licences to keepers of inns, alehouses, " and victualling houses in England," or at some adjournment of such meeting, or at the special sessions for transferring licences held in pursuance of the said last-mentioned Act. A.D. 1869.

Form of certificate.

7. A certificate under this Act shall specify the name and address of the person thereby authorized to receive a licence, the description of licence authorized to be granted to him, and whether such licence is to be granted for the sale of beer, cider, or wine to be consumed on or off the premises, and the situation of the house or shop in respect of which such grant is authorized. It shall be in force for *one* year from the date of its being granted, and shall be in the form given in the first schedule hereto, or as near thereto as circumstances admit.

Notice of application.

8. Every person intending to apply to the justices for a certificate under this Act shall, *twenty-one* days at least before he applies, give notice in writing of his intention to one of the overseers of the parish, township, or place in which the house or shop in respect of which his application is to be made is situate, and to some constable or peace officer acting within such parish, township, or place, and shall in such notice set forth his name and address, and a description of the licence for which he intends to apply, and of the situation of the house or shop in respect of which the application is to be made; and in the case of a house or shop not theretofore licensed for the sale by retail of beer, cider, or wine, such person shall also, twenty-one days at least before such application is made, cause a like notice to be affixed on the principal door or on one of the doors of the church or chapel of the parish or place in which such house or shop is situate, or, if there be no such church or chapel, on some other public and conspicuous place within such parish or place.

Application of 9 G. 4. c. 61. to grants of certificates.

9. All the provisions of the said Act of the ninth year of the reign of King George the Fourth as to the terms upon which, and the manner in which, grants of licences are to be made by the justices at the said general annual licensing meeting, and as to appeal from any act of any justice, shall, so far as may be, have effect with regard to grants of certificates under this Act, subject to this qualification, that no application for a certificate under this Act in respect of a licence to sell by retail beer, cider, or wine not to be consumed on the premises shall be refused, except upon one or more of the following grounds; viz.,

(1.) That the applicant is of notoriously bad character:

(2.) That the house or shop in respect of which a licence is sought is of a disorderly character, or frequented by thieves, prostitutes, or persons of notorious bad character:

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(3.) That the applicant having previously held a licence for the sale of wine, spirits, beer, or cider, the same has been forfeited for his misconduct, or that he has through misconduct been at any time previously adjudged disqualified from receiving any such licence, or from selling any of the said articles :

(4.) That the applicant, or the house in respect of which he applies, is not duly qualified as by law is required :

And the justices shall, in the case of a refusal of an application for any such last-mentioned certificate, specify in writing to the applicant the grounds of their decision.

Forgery of certificate.

10. If any person forge, or tender knowing the same to have been forged, any certificate authorized to be granted by this Act, he shall, on summary conviction before *two* or more justices, be liable to a penalty not exceeding *twenty* pounds, or, in the discretion of the justices before whom he is tried, to imprisonment for any period not exceeding *six* months, with or without hard labour. Any licence granted in pursuance of such forged certificate shall be void, and any person making use of such forged certificate, knowing the same to have been forged, shall be disqualified from obtaining at any time thereafter a licence for the sale of beer, cider, or wine by retail under any of the said recited Acts.

Constables may enter on houses licensed to sell beer, &c. not to be consumed on the premises.

11. Constables and officers of police may at all times enter into and examine any house or shop in respect of which any person is licensed under any of the said recited Acts to sell by retail beer, cider, or wine not to be consumed on the premises, in the same manner as if such house or shop were licensed for the sale of such articles by retail to be consumed on the premises; and if any such licensed person, or any servant or other person in his employ or by his direction, refuse to admit or do not admit any constable or officer demanding admittance to such house or shop, such licensed person shall be liable to the same penalties recoverable or to be enforced in the same manner in all respects as if he were licensed in respect of such house or shop to sell by retail beer, cider, or wine to be consumed on the premises, and had refused admittance to such constable or officer.

Proof of money passing not necessary to prove sale.

12. In any legal proceeding under any of the said recited Acts it shall not be necessary in order to prove the sale of beer, cider, or wine in or upon any house or premises to prove the receipt or payment of any money in respect of such sale, but proof that any beer, cider, or wine was drunk or consumed in or upon such house or premises by any person other than the keeper of such house or premises, or some servant or inmate residing therein, shall be primâ

facie evidence of the sale of such beer, cider, or wine in or upon such house or premises. A.D. 1869.

In cases of illegal sale on neighbouring premises evidence need not be given of ownership of such premises.

13. In any proceeding in relation to any forfeiture or penalty alleged to be incurred by any person licensed to sell by retail beer, cider, or wine, not to be consumed on the premises, for having, with intent to evade the provisions of any Act of Parliament, taken or authorized or suffered any person to take any beer, cider, or wine out of or from the house or premises of such licensed person for the purpose of being for his benefit or profit drunk or consumed in any other house, or in any tent, shed, or other building or premises, it shall not be necessary to prove that such last-mentioned house, tent, shed, building, or premises belonged to such licensed person, or was hired, used, or occupied by him, if proof be given to the satisfaction of the justices having cognizance of the case that such beer, cider, or wine was drunk or consumed therein or thereupon with intent to evade the provisions of any such Act; and on such proof being given, such beer, cider, or wine shall be deemed to have been drunk or consumed on the premises of the said licensed person, and he shall be subject to the like penalties and forfeitures as if such beer, cider, or wine had been drunk or consumed in any house or on any premises licensed only for the sale thereof not to be consumed on the premises.

Persons present in houses open at illegal hours to be liable to half penalties of keeper of the house.

14. Where any person licensed under any of the said recited Acts to sell beer, cider, or wine by retail is convicted of keeping his house open for such sale, or of suffering any beer, cider, or wine to be drunk in such house at any time during which such house ought by law to be closed, any person or persons (other than the servants or inmates of such house) present in such house at such time shall, unless they account for their presence to the satisfaction of the justices having cognizance of the case, be deemed to be guilty of the same offence as such convicted person, and shall on summary conviction be liable to half the amount of any pecuniary penalties to which such convicted person is liable.

In order to constitute a second or third offence previous offence need not have been committed within limited period.

15. Where any person is convicted of an offence against the tenor or conditions of any licence granted to him under any of the said recited Acts, or of any offence for which any penalty is imposed by any of the said recited Acts, if any previous conviction or convictions for any of the said offences be proved against him, the offence of which he is last convicted shall be deemed to be a second or third offence, as the case may be, notwithstanding that the said previous conviction or convictions did not take place within the time limited in that behalf by any of the said recited Acts.

A.D. 1869.

Existing licences may be renewed.

16. Licences granted before the passing of this Act under any of the said recited Acts may be granted by way of renewal to any persons in the same manner as if this Act had not been passed, but such licences shall be granted to such persons only and so long only as they continue to hold the premises in respect of which the licences were granted; and the provisions of this Act as to second and third offences shall apply in the case of any offence committed by such persons.

Saving clause.

17. Nothing in this Act contained shall be deemed to affect—

(1.) The privileges heretofore enjoyed by any university in England, or the respective chancellors or scholars of the same, or their successors:

(2.) The privileges heretofore enjoyed by the masters, wardens, freemen, and commonalty of the vintners of the city of London, except as to those freemen of the said vintners who have obtained their freedom by redemption only:

(3.) The privileges heretofore enjoyed by the mayor or burgesses of the city of St. Albans in the county of Hertford, or their successors:

(4.) The right of any person who is duly authorized by justices of the peace to keep a common inn, alehouse, or victualling house to take out any excise licence:

(5.) The grant of any occasional licence, or the power of any person duly authorized by the excise to sell beer, spirits, or wine at any fair or public races.

Repeal of Acts.

18. The several parts of the Acts set forth in the second schedule hereto shall be repealed to the extent therein specified so far as relates to any licence under any of the said recited Acts granted after the passing of this Act within any place to which this Act applies: Provided that such repeal shall not affect—

(1.) Any liability incurred or thing duly done before the commencement of this Act:

(2.) Any penalty, forfeiture, or other punishment incurred in respect of any offence committed before the commencement of this Act:

(3.) Any legal proceeding or legal remedy for enforcing or recovering any such liability, thing, penalty, forfeiture, or punishment as aforesaid.

FIRST SCHEDULE.

Form of Certificate.

We, the justices assembled [*or* being the majority of the justices assembled] at the general annual licensing meeting [*or* an adjournment of the general annual licensing meeting, *or* at a special petty session] of Her Majesty's justices of the peace acting for the division [*or* liberty, &c., *as the case may be*,] of in the county of holden on the day of one thousand eight hundred and do hereby authorize the grant to *A.B.* of in the county of of a licence to sell by retail [beer, cider, *or* wine to be consumed on *or* off the premises] at a house [*or* shop] situate [*describe situation*].

Witness our hands this day of .

SECOND SCHEDULE.

Acts repealed.	Title of Act.	Extent of Repeal.
11 Geo. 4. & 1 Will. 4. c. 64.	An Act to permit the general sale of beer and cider by retail in England.	So much of section two as requires the grant of an Excise licence under the provisions of the Act to be made within ten days after application has been made for the same.
4 & 5 Will. 4. c. 85.	An Act to amend an Act passed in the first year of His present Majesty to permit the general sale of beer and cider by retail in England.	Sections two, three, eight, and nine.
3 & 4 Vict. c. 61.	An Act to amend the Acts relating to the general sale of beer and cider in England.	Sections two, three; so much of section four as enacts that in any extra-parochial place or places where no rates are made or collected for the relief of the poor a person applying for a licence shall produce to and deposit and leave with the proper officer of excise granting such licence a certificate in writing, signed by two inhabitant householders of the township or place, certifying that the party applying is the real resident in and occupier of the dwelling-house sought to be licensed, and also certifying the true and real annual value of the same with the premises occupied therewith, according to the best of their judgment and belief.—Sections five and six.
23 Vict. c. 27.	An Act for granting to Her Majesty certain duties on wine licences and refreshment houses, and for regulating the licensing of refreshment houses and the granting of wine licences.	So much of section thirteen as requires a requisition for a licence to sell foreign wine by retail to be consumed in a refreshment house to be made in duplicate, and as requires the supervisor of excise for the district in which such refreshment house is situated to deliver or transmit by post one of such duplicates to the clerk to the justices of the court of petty sessions holden for any division or place within which such refreshment house is situated, and as enacts that every such duplicate shall be accompanied by a notice to such justices to the effect in the said section stated, and as enacts that if any such notice of objection as is therein specified is received by the said supervisor within the time by the said section limited, the said licence shall not be granted, and as enacts that the said justices may transmit to the said supervisor a notice by way of caveat against the granting of such licence, and that in that case the licence shall not be granted if within thirty days from the receipt of such caveat the objection to the granting of the licence be affirmed by the said justices, and notice thereof be given to the said supervisor.—Sections fourteen and fifteen.

Beerhouses, &c.

A

BILL

To amend the Law for licensing Beerhouses, and to make certain Alterations with respect to the Sale by retail of Beer, Cider, and Wine.

(*Prepared and brought in by Mr. Selwin-Ibbetson, Mr. Akroyd, and Mr. Headlam.*)

Ordered, by The House of Commons, *to be Printed*, 26 *February* 1869.

[Bill 22.]

Under 2 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the law for licensing Beerhouses, and to make certain alterations with respect to the Sale by retail of Beer, Cider, and Wine. A.D. 1869.

WHEREAS by the Acts relating to the general sale of beer and cider by retail in England; (that is to say,)

(1.) An Act of the session of the last year of the reign of King George the Fourth and the first year of the reign of King William the Fourth, chapter sixty-four, intituled "An Act "to permit the general sale of beer and cider by retail in "England;" 11 G. 4. & 1 W. 4. c. 64.

(2.) An Act of the session of the fourth and fifth years of the reign of King William the Fourth, chapter eighty-five, intituled "An Act to amend an Act passed in the first "year of His present Majesty, to permit the general sale "of beer and cider by retail in England;" 4 & 5 W. 4. c. 85.

(3.) An Act of the session of the third and fourth years of the reign of Her present Majesty, chapter sixty-one, intituled "An Act to amend the Acts relating to the general sale "of beer and cider by retail in England;" 3 & 4 Vict. c. 61.

(4.) An Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter twenty-one, entitled "An Act for granting to Her Majesty certain "duties of excise and stamps;" 24 & 25 Vict. c. 21.

provision is made for the grant of licences by the excise for the sale by retail of beer and cider upon the terms and conditions therein specified:

And whereas by an Act of the session of the twenty-sixth and twenty-seventh years of the reign of Her present Majesty, chapter thirty-three, intituled "An Act for granting to Her Majesty certain "duties of inland revenue, and to amend the laws relating to the "inland revenue," it is enacted, that any person who after the passing of that Act has taken out an excise licence to sell strong 26 & 27 Vict. c. 33. s. 1.

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beer in casks containing not less than four and a half gallons, or in not less than two dozen reputed quart bottles, at one time, to be drunk or consumed elsewhere than on his premises, may take out an additional licence on payment of the excise duties therein mentioned, and that the same shall authorize such person to sell beer in any less quantity and in any other manner than as aforesaid, but not to be drunk or consumed on the premises where sold, and that such additional licence shall be granted without the production of any certificate, or the possession of any other qualification than the licence therein first mentioned :

23 Vict. c. 27.

And whereas provision is made for the grant of licences by the excise for the sale of wine by retail, and for other purposes, by an Act of the session of the twenty-third year of the reign of Her present Majesty, chapter twenty-seven, intituled "An Act for "granting to Her Majesty certain duties on wine licences and "refreshment houses, and for regulating the licensing of refreshment "houses, and the granting of wine licences :"

And whereas it is expedient to make better provision with regard to the granting of the licences herein-before mentioned, and for regulating the houses and shops in which beer, cider, and wine are sold by retail :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows ; (that is to say,)

Application of Act.

1. This Act shall not apply to Scotland or Ireland, or the metropolis, that is, places for the time being within the jurisdiction of the Metropolitan Board of Works, under "The Metropolis Management Act, 1855."

Definition of beer and cider.

2. For the purposes of this Act the term "beer" shall include ale and porter, and the term "cider" shall include perry.

Short title of Act.

3. This Act may be cited as "The Wine and Beerhouse Act, 1869."

Retail licences not to be granted without certificate.

4. From and after the passing of this Act no licence or renewal of a licence for the sale by retail of beer, cider, or wine under the provisions of any of the said recited Acts shall (save as is in this Act otherwise provided) be granted except upon the production and in pursuance of the authority of a certificate granted under this Act.

Any licence granted or renewed in contravention of this enactment shall be void.

Certificates by whom granted.

5. Certificates under this Act shall be granted by the justices assembled at the general annual licensing meeting held in pursuance of an Act of the session of the ninth year of the reign of King George the Fourth, chapter sixty-one, intituled "An Act to "regulate the granting of licences to keepers of inns, alehouses, "and victualling houses in England," or at some adjournment of such meeting, or at the special sessions for transferring licences held in pursuance of the said last-mentioned Act.

Form of certificate.

6. A certificate under this Act shall specify the name and address of the person thereby authorized to receive a licence, the description of licence or licences authorized to be granted to him, and whether such licence or licences is or are to be granted for the sale of beer, cider, or wine to be consumed on or off the premises, and the situation of the house or shop in respect of which such grant is authorized. It shall be in force for *one* year from the date of its being granted, and shall be in the form given in the first schedule hereto, or as near thereto as circumstances admit.

Notice of application.

7. Every person intending to apply to the justices for a certificate under this Act shall, *twenty-one* days at least before he applies, give notice in writing of his intention to one of the overseers of the parish, township, or place in which the house or shop in respect of which his application is to be made is situate, and to some constable or peace officer acting within such parish, township, or place, and shall in such notice set forth his name and address, and a description of the licence or licences for which he intends to apply, and of the situation of the house or shop in respect of which the application is to be made; and in the case of a house or shop not theretofore licensed for the sale by retail of beer, cider, or wine, such person shall also within the space of twenty-eight days before such application is made cause a like notice to be affixed and maintained between the hours of ten in the morning and five in the afternoon of two consecutive Sundays on the principal door or on one of the doors of the church or chapel of the parish or place in which such house or shop is situate, or, if there be no such church or chapel, on some other public and conspicuous place within such parish or place. Where application is made to the justices for the grant of a certificate under this Act by way of renewal only, notice in pursuance of this section shall not be requisite.

Application of 9 G. 4. c. 61. to grants of certificates.

8. All the provisions of the said Act of the ninth year of the reign of King George the Fourth as to the terms upon which, and the manner in which, grants of licences are to be made by the justices at the said general annual licensing meeting, and as to

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appeal from any act of any justice, shall, so far as may be, have effect with regard to grants of certificates under this Act, subject to this qualification, that no application for a certificate under this Act in respect of a licence to sell by retail beer, cider, or wine not to be consumed on the premises shall be refused, except upon one or more of the following grounds; viz.,

(1.) That the applicant is of notoriously bad character:

(2.) That the house or shop in respect of which a licence is sought is of a disorderly character, or frequented by thieves, prostitutes, or persons of notorious bad character:

(3.) That the applicant having previously held a licence for the sale of wine, spirits, beer, or cider, the same has been forfeited for his misconduct, or that he has through misconduct been at any time previously adjudged disqualified from receiving any such licence, or from selling any of the said articles:

(4.) That the applicant, or the house in respect of which he applies, is not duly qualified as by law is required:

Where an application for any such last-mentioned certificate is refused on the ground that the applicant or the house in respect of which he applies is not duly qualified as by law is required, the justices shall specify in writing to the applicant the grounds of their decision.

Transfer of certificates.

9. It shall be lawful for the justices of the peace assembled in any petty sessions holden for any division or place within which is situated any house or shop in respect of which a certificate under this Act has been granted to authorize by indorsement under their hands the transfer of such certificate to any authorized person they may think fit; and it shall be lawful for the persons authorized to grant licences under the said recited Acts, upon production of a certificate purporting to be so indorsed, to authorize, in such manner as the Commissioners of Inland Revenue direct, the transferee of such certificate to become the transferee of any licence in respect of which the certificate was granted until the next general annual licensing meeting, or until the next special sessions for transferring licences, at which a certificate in respect of such licence is grantable under this Act. A transferee of any such licence shall, so long as he continues to be the transferee thereof, be subject to the provisions of the said recited Acts and of this Act, in the same manner as if he were the person to whom the licence was granted. No justice of the peace shall act upon any application for the transfer of a certificate under this Act who is disqualified by law from acting in or being present at any general annual licensing meeting,

or at any special sessions for granting or transferring licences to sell exciseable liquors; and any justice contravening this enactment shall forfeit a penalty for each offence not exceeding fifty pounds.

Forgery of certificate.

10. If any person forge, or tender knowing the same to have been forged, any certificate authorized to be granted by this Act, he shall, on summary conviction before *two* or more justices, be liable to a penalty not exceeding *twenty* pounds, or, in the discretion of the justices before whom he is tried, to imprisonment for any period not exceeding *six* months, with or without hard labour. Any licence granted in pursuance of such forged certificate shall be void, and any person making use of such forged certificate, knowing the same to have been forged, shall be disqualified from obtaining at any time thereafter a licence for the sale of beer, cider, or wine by retail under any of the said recited Acts.

Constables may enter on houses licensed to sell beer, &c. not to be consumed on the premises.

11. Constables and officers of police may at all times enter into and examine any house or shop in respect of which any person is licensed under any of the said recited Acts to sell by retail beer, cider, or wine not to be consumed on the premises, in the same manner as if such house or shop were licensed for the sale of such articles by retail to be consumed on the premises; and if any such licensed person, or any servant or other person in his employ or by his direction, refuse to admit or do not admit any constable or officer demanding admittance to such house or shop, such licensed person shall be liable to the same penalties recoverable or to be enforced in the same manner in all respects as if he were licensed in respect of such house or shop to sell by retail beer, cider, or wine to be consumed on the premises, and had refused admittance to such constable or officer.

Proof of money passing not necessary to prove sale.

12. In any legal proceeding under any of the said recited Acts it shall not be necessary in order to prove the sale of beer, cider, or wine in or upon any house or premises to prove the receipt or payment of any money in respect of such sale, but proof that any beer, cider, or wine was drunk or consumed in or upon such house or premises by any person other than the keeper of such house or premises, or some servant or inmate residing therein, shall be primâ facie evidence of the sale of such beer, cider, or wine in or upon such house or premises.

In cases of illegal sale on neighbouring premises evidence

13. In any proceeding in relation to any forfeiture or penalty alleged to be incurred by any person licensed to sell by retail beer, cider, or wine, not to be consumed on the premises, for having, with intent to evade the provisions of any Act of Parliament, taken or

A.D. 1869.

need not be given of ownership of such premises.

authorized or suffered any person to take any beer, cider, or wine out of or from the house or premises of such licensed person for the purpose of being for his benefit or profit drunk or consumed in any other house, or in any tent, shed, or other building or premises, it shall not be necessary to prove that such last-mentioned house, tent, shed, building, or premises belonged to such licensed person, or was hired, used, or occupied by him, if proof be given to the satisfaction of the justices having cognizance of the case that such beer, cider, or wine was drunk or consumed therein or thereupon with intent to evade the provisions of any such Act; and on such proof being given, such beer, cider, or wine shall be deemed to have been drunk or consumed on the premises of the said licensed person, and he shall be subject to the like penalties and forfeitures as if such beer, cider, or wine had been drunk or consumed in any house or on any premises licensed only for the sale thereof not to be consumed on the premises.

Penalty for selling beer or cider to be drunk at illegal times.

14. If any person suffer beer or cider to be drunk in his house at any time during which the house ought by law to be closed, he shall be liable, on summary conviction, to a penalty not exceeding forty shillings for each offence.

Persons present in houses open at illegal hours to be liable to half penalties of keeper of the house.

15. Where any person licensed under any of the said recited Acts to sell beer, cider, or wine by retail, or any person licensed under the said Act of the ninth year of the reign of King George the Fourth, is convicted of keeping his house open for the sale of or of selling beer, cider, wine, spirits, or any other exciseable liquor, or of suffering the same to be drunk in such house, at any time during which such house ought by law to be closed, any person (other than the servants or inmates of such house) present in such house at such time shall, unless he account for his presence to the satisfaction of the justices having cognizance of the case, be liable on summary conviction to a penalty not exceeding forty shillings for each offence.

In order to constitute a second or third offence previous offence need not have been committed within limited period.

16. In the following cases, that is to say,—

(1.) Where any person is convicted of an offence against the tenor or conditions of a licence granted to him under any of the said recited Acts, or of an offence for which a penalty is imposed by any of the said recited Acts;

(2.) Where any person is convicted of an offence against the tenor of a licence granted to him under the said Act of the ninth year of the reign of King George the Fourth:

or of any offence for which any penalty is imposed by any of the said recited Acts, if any previous conviction or convictions since the

passing of this Act for any of the said offences be proved against him, the offence of which he is last convicted shall be deemed to be a second or third offence, as the case may be, notwithstanding that the said previous conviction or convictions did not take place within the time limited in that behalf by any of the said recited Acts or by the said Act of the reign of King George the Fourth.

Management of houses licensed for sale of table beer.

17. All houses licensed for the sale of table beer under the Act twenty-fourth and twenty-fifth years of Victoria, chapter twenty-one, and all persons holding such licences, shall be subject and liable to all and every the regulations, restrictions, inspections, and penalties as to times of opening and closing of houses, conduct of persons conducting or carrying on the trade, and entry and inspection by the police or other peace officers, to which beerhouses, and persons licensed to keep the same, are subject and liable under the several statutes relating thereto.

Existing licences to be renewed, except in certain cases.

18. Where, on the first of May one thousand eight hundred and sixty-nine, a licence under any of the said recited Acts is in force with respect to any house or shop for the sale by retail therein of beer, cider, or wine to be consumed on the premises, it shall not be lawful for the justices to refuse an application for a certificate for the sale of beer, cider, or wine to be consumed on the premises in respect of such house or shop, except upon one or more of the grounds upon which an application for a certificate under this Act in respect of a licence for the sale of beer, cider, or wine, not to be consumed on the premises, may be refused, in accordance with this Act: Provided that where a person licensed in respect of such house or shop to sell therein by retail beer, cider, or wine to be consumed on the premises is convicted, after the passing of this Act, of more than one offence against the tenor of his licence, or of more than one offence for which any penalty is imposed by any of the said recited Acts, the house or shop shall, for the purposes of this section, be thenceforth deemed to be a house or shop in respect of which no licence for the sale by retail of beer, cider, or wine was in force at the time of the passing of this Act.

Saving clause.

19. Nothing in this Act contained shall be deemed to affect—

(1.) The privileges heretofore enjoyed by any university in England, or the respective chancellors or scholars of the same, or their successors:

(2.) The privileges heretofore enjoyed by the masters, wardens, freemen, and commonalty of the vintners of the city of London, except as to those freemen of the said vintners who have obtained their freedom by redemption only:

A.D. 1869.

(3.) The privileges heretofore enjoyed by the mayor or burgesses of the city of St. Albans in the county of Hertford, or their successors:

(4.) The right of any person who is duly authorized by justices of the peace to keep a common inn, alehouse, or victualling house to take out any excise licence:

(5.) The grant of any occasional licence, or the power of any person duly authorized by the excise to sell beer, spirits, or wine at any fair or public races.

Repeal of Acts.

20. The several parts of the Acts set forth in the second schedule hereto shall be repealed to the extent therein specified so far as relates to any licence under any of the said recited Acts granted after the passing of this Act within any place to which this Act applies: Provided that such repeal shall not affect—

(1.) Any liability incurred or thing duly done before the commencement of this Act:

(2.) Any penalty, forfeiture, or other punishment incurred in respect of any offence committed before the commencement of this Act:

(3.) Any legal proceeding or legal remedy for enforcing or recovering any such liability, thing, penalty, forfeiture, or punishment as aforesaid.

Act to be in force for two years.

21. This Act shall be in force for two years from the date of the passing thereof, and until the end of the then next session of Parliament.

FIRST SCHEDULE.

Form of Certificate.

We, the justices assembled [*or* being the majority of the justices assembled] at the general annual licensing meeting [*or* an adjournment of the general annual licensing meeting, *or* at a special petty session] of Her Majesty's justices of the peace acting for the division [*or* liberty, &c., *as the case may be*,] of in the county of holden on the day of one thousand eight hundred and do hereby authorize the grant to *A.B.* of in the county of of a licence or licences, if more than one be authorized, to sell by retail [beer, cider, *or* wine to be consumed on *or* off the premises] at a house [*or* shop] situate [*describe situation*].

Witness our hands, this day of .

SECOND SCHEDULE.

Acts repealed.	Title of Act.	Extent of Repeal.
11 Geo. 4. & 1 Will. 4. c. 64.	An Act to permit the general sale of beer and cider by retail in England.	So much of section two as requires the grant of an Excise licence under the provisions of the Act to be made within ten days after application has been made for the same.
4 & 5 Will. 4. c. 85.	An Act to amend an Act passed in the first year of His present Majesty to permit the general sale of beer and cider by retail in England.	Sections two, three, eight, and nine.
3 & 4 Vict. c. 61.	An Act to amend the Acts relating to the general sale of beer and cider in England.	Sections two, three; so much of section four as enacts that in any extra-parochial place or places where no rates are made or collected for the relief of the poor a person applying for a licence shall produce to and deposit and leave with the proper officer of excise granting such licence a certificate in writing, signed by two inhabitant householders of the township or place, certifying that the party applying is the real resident in and occupier of the dwelling-house sought to be licensed, and also certifying the true and real annual value of the same with the premises occupied therewith, according to the best of their judgment and belief.—Sections five and six.
23 Vict. c. 27.	An Act for granting to Her Majesty certain duties on wine licences and refreshment houses, and for regulating the licensing of refreshment houses and the granting of wine licences.	So much of section thirteen as requires a requisition for a licence to sell foreign wine by retail to be consumed in a refreshment house to be made in duplicate, and as requires the supervisor of excise for the district in which such refreshment house is situated to deliver or transmit by post one of such duplicates to the clerk to the justices of the court of petty sessions holden for any division or place within which such refreshment house is situated, and as enacts that every such duplicate shall be accompanied by a notice to such justices to the effect in the said section stated, and as enacts that if any such notice of objection as is therein specified is received by the said supervisor within the time by the said section limited, the said licence shall not be granted, and as enacts that the said justices may transmit to the said supervisor a notice by way of caveat against the granting of such licence, and that in that case the licence shall not be granted if within thirty days from the receipt of such caveat the objection to the granting of the licence be affirmed by the said justices, and notice thereof be given to the said supervisor.—Sections fourteen and fifteen.

Beerhouses, &c.

A

B I L L

[AS AMENDED IN COMMITTEE]

To amend the law for licensing Beerhouses, and to make certain alterations with respect to the Sale by retail of Beer, Cider, and Wine.

(*Prepared and brought in by Mr. Selwin-Ibbetson, Mr. Akroyd, and Mr. Headlam.*)

Ordered, by The House of Commons, *to be Printed,* 11 *May* 1869.

[Bill 116.]

Under 2 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE AND ON CONSIDERATION AS AMENDED]

TO

Amend the law for licensing Beerhouses, and to make certain alterations with respect to the Sale by retail of Beer, Cider, and Wine. A.D. 1869.

WHEREAS by the Acts relating to the general sale of beer and cider by retail in England; (that is to say,)

(1.) An Act of the session of the last year of the reign of King George the Fourth and the first year of the reign of King William the Fourth, chapter sixty-four, intituled "An Act "to permit the general sale of beer and cider by retail in "England;" 11 G. 4. & 1 W. 4. c. 64.

(2.) An Act of the session of the fourth and fifth years of the reign of King William the Fourth, chapter eighty-five, intituled "An Act to amend an Act passed in the first "year of His present Majesty, to permit the general sale "of beer and cider by retail in England;" 4 & 5 W. 4. c. 85.

(3.) An Act of the session of the third and fourth years of the reign of Her present Majesty, chapter sixty-one, intituled "An Act to amend the Acts relating to the general sale "of beer and cider by retail in England;" 3 & 4 Vict. c. 61.

(4.) An Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter twenty-one, entitled "An Act for granting to Her Majesty certain "duties of excise and stamps;" 24 & 25 Vict. c. 21.

provision is made for the grant of licences by the excise for the sale by retail of beer and cider upon the terms and conditions therein specified:

And whereas by an Act of the session of the twenty-sixth and twenty-seventh years of the reign of Her present Majesty, chapter thirty-three, intituled "An Act for granting to Her Majesty certain "duties of inland revenue, and to amend the laws relating to the "inland revenue," it is enacted, that any person who after the passing of that Act has taken out an excise licence to sell strong 26 & 27 Vict. c. 33. s. 1.

A.D. 1869.

beer in casks containing not less than four and a half gallons, or in not less than two dozen reputed quart bottles, at one time, to be drunk or consumed elsewhere than on his premises, may take out an additional licence on payment of the excise duties therein mentioned, and that the same shall authorize such person to sell beer in any less quantity and in any other manner than as aforesaid, but not to be drunk or consumed on the premises where sold, and that such additional licence shall be granted without the production of any certificate, or the possession of any other qualification than the licence therein first mentioned :

23 Vict. c. 27.

And whereas provision is made for the grant of licences by the excise for refreshment houses and for the sale of wine by retail, and for other purposes, by an Act of the session of the twenty-third year of the reign of Her present Majesty, chapter twenty-seven, intituled "An Act for granting to Her Majesty certain "duties on wine licences and refreshment houses, and for regu-"lating the licensing of refreshment houses, and the granting of "wine licences :"

And whereas it is expedient to make better provision with regard to the granting of the licences herein-before mentioned, and for regulating the houses and shops in which beer, cider, and wine are sold by retail :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows ; (that is to say,)

Application of Act.

1. This Act shall not apply to Scotland or Ireland.

Definition of beer and cider.

2. For the purposes of this Act the term "beer" shall include ale and porter, and the term "cider" shall include perry.

Short title of Act.

3. This Act may be cited as "The Wine and Beerhouse Act, 1869."

Retail licences not to be granted without certificate.

4. From and after the passing of this Act no licence or renewal of a licence for the sale by retail of beer, cider, or wine under the provisions of any of the said recited Acts shall (save as is in this Act otherwise provided) be granted except upon the production and in pursuance of the authority of a certificate granted under this Act.

Any licence granted or renewed in contravention of this enactment shall be void.

Certificates by whom granted.

5. Certificates under this Act shall be granted by the justices assembled at the general annual licensing meeting held in pur-

suance of an Act of the session of the ninth year of the reign of King George the Fourth, chapter sixty-one, intituled "An Act to "regulate the granting of licences to keepers of inns, alehouses, "and victualling houses in England," or at some adjournment of such meeting held in pursuance of the said last-mentioned Act: Provided that certificates for licences under the said Acts of the twenty-third year of the reign of Her present Majesty, of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, and of the twenty-sixth and twenty-seventh years of Her present Majesty, may be granted by justices at the special sessions for transferring licences. A.D. 1869.

Form of certificate.

6. A certificate under this Act shall specify the name and address of the person thereby authorized to receive a licence, the description of licence or licences authorized to be granted to him, and whether such licence or licences is or are to be granted for the sale of beer, cider, or wine to be consumed on or off the premises, and the situation of the house or shop in respect of which such grant is authorized. It shall be in force for *one* year from the date of its being granted, and shall be in the form given in the first schedule hereto, or as near thereto as circumstances admit.

Notice of application.

7. Every person intending to apply to the justices for a certificate under this Act shall, *twenty-one* days at least before he applies, give notice in writing of his intention to one of the overseers of the parish, township, or place in which the house or shop in respect of which his application is to be made is situate, and to some constable or peace officer acting within such parish, township, or place, and shall in such notice set forth his name and address, and a description of the licence or licences for which he intends to apply, and of the situation of the house or shop in respect of which the application is to be made; and in the case of a house or shop not theretofore licensed for the sale by retail of beer, cider, or wine, such person shall also within the space of twenty-eight days before such application is made cause a like notice to be affixed and maintained between the hours of ten in the morning and five in the afternoon of two consecutive Sundays on the principal door or on one of the doors of the church or chapel of the parish or place in which such house or shop is situate, or, if there be no such church or chapel, on some other public and conspicuous place within such parish or place. Where application is made to the justices for the grant of a certificate under this Act by way of renewal only, notice in pursuance of this section shall not be requisite.

A.D. 1869.

Application of 9 G. 4. c. 61. to grants of certificates.

8. All the provisions of the said Act of the ninth year of the reign of King George the Fourth as to the terms upon which, and the manner in which, grants of licences are to be made by the justices at the said general annual licensing meeting, and as to appeal from any act of any justice, shall, so far as may be, have effect with regard to grants of certificates under this Act, subject to this qualification, that no application for a certificate under this Act in respect of a licence to sell by retail beer, cider, or wine not to be consumed on the premises shall be refused, except upon one or more of the following grounds; viz.,

(1.) That the applicant has failed to produce satisfactory evidence of good character:

(2.) That the house or shop in respect of which a licence is sought is of a disorderly character, or frequented by thieves, prostitutes, or persons of bad character:

(3.) That the applicant having previously held a licence for the sale of wine, spirits, beer, or cider, the same has been forfeited for his misconduct, or that he has through misconduct been at any time previously adjudged disqualified from receiving any such licence, or from selling any of the said articles:

(4.) That the applicant, or the house in respect of which he applies, is not duly qualified as by law is required:

Where an application for any such last-mentioned certificate is refused on the ground that the house in respect of which he applies is not duly qualified as by law is required, the justices shall specify in writing to the applicant the grounds of their decision.

Transfer of certificates.

9. A certificate without notice may be granted to a new tenant or occupant of any house or premises in respect of which a licence under any of the said recited Acts shall have been granted before the commencement of this Act, or in respect of which a certificate shall have been granted under this Act by the justices (or the majority of them) in petty sessions for any borough, county, division, or place within which such house or premises shall be situated, which certificate shall be in force until the then next practicable petty sessions for obtaining a certificate under this Act; and it shall be lawful for any such new tenant or occupant, without a certificate, to sell beer, cyder, and wine under an excise licence, or any transfer thereof, until the then next petty sessions holden in and for the borough, county, division, or place in which such house or premises shall be situated.

A.D. 1869.

Forgery of certificate.

10. If any person forge, or tender knowing the same to have been forged, any certificate authorized to be granted by this Act, he shall, on summary conviction before *two* or more justices, be liable to a penalty not exceeding *twenty* pounds, or, in the discretion of the justices before whom he is tried, to imprisonment for any period not exceeding *six* months, with or without hard labour. Any licence granted in pursuance of such forged certificate shall be void, and any person making use of such forged certificate, knowing the same to have been forged, shall be disqualified from obtaining at any time thereafter a licence for the sale of beer, cider, or wine by retail under any of the said recited Acts.

Constables may enter on houses licensed to sell beer, &c. not to be consumed on the premises.

11. Constables and officers of police may at all times enter into and examine any house or shop in respect of which any person is licensed under any of the said recited Acts to sell by retail beer, cider, or wine not to be consumed on the premises, in the same manner as if such house or shop were licensed for the sale of such articles by retail to be consumed on the premises; and if any such licensed person, or any servant or other person in his employ or by his direction, refuse to admit or do not admit any constable or officer demanding admittance to such house or shop, such licensed person shall be liable to the same penalties recoverable or to be enforced in the same manner in all respects as if he were licensed in respect of such house or shop to sell by retail beer, cider, or wine to be consumed on the premises, and had refused admittance to such constable or officer.

Proof of money passing not necessary to prove sale.

12. In any legal proceeding under any of the said recited Acts it shall not be necessary in order to prove the sale of beer, cider, or wine in or upon any house or premises to prove the receipt or payment of any money in respect of such sale, but proof that any beer, cider, or wine was drunk or consumed in or upon such house or premises by any person other than the keeper of such house or premises, or some servant or inmate residing therein, shall be primâ facie evidence of the sale of such beer, cider, or wine in or upon such house or premises.

In cases of illegal sale on neighbouring premises evidence need not be given of ownership of such premises.

13. In any proceeding in relation to any forfeiture or penalty alleged to be incurred by any person licensed to sell by retail beer, cider, or wine, not to be consumed on the premises, for having, with intent to evade the provisions of any Act of Parliament, taken or authorized or suffered any person to take any beer, cider, or wine out of or from the house or premises of such licensed person for the purpose of being for his benefit or profit drunk or consumed in any other house, or in any tent, shed, or other building or premises, it shall not be necessary to prove that such last-mentioned house, tent,

A.D. 1869.

shed, building, or premises belonged to such licensed person, or was hired, used, or occupied by him, if proof be given to the satisfaction of the justices having cognizance of the case that such beer, cider, or wine was drunk or consumed therein or thereupon with intent to evade the provisions of any such Act; and on such proof being given, such beer, cider, or wine shall be deemed to have been drunk or consumed on the premises of the said licensed person, and he shall be subject to the like penalties and forfeitures as if such beer, cider, or wine had been drunk or consumed in any house or on any premises licensed only for the sale thereof not to be consumed on the premises.

Penalty for selling beer or cider to be drunk at illegal times.

14. If any person suffer beer or cider to be drunk in his house at any time during which the house ought by law to be closed, he shall be liable, on summary conviction, to a penalty not exceeding forty shillings for each offence.

Persons present in houses open at illegal hours to be liable to half penalties of keeper of the house.

15. Where any person licensed under any of the said recited Acts to sell beer, cider, or wine by retail, or any person licensed under the said Act of the ninth year of the reign of King George the Fourth, is convicted of keeping his house open for the sale of or of selling beer, cider, wine, spirits, or any other exciseable liquor, or of suffering the same to be drunk in such house, at any time during which such house ought by law to be closed, any person (other than the servants or inmates of such house) present in such house at such time shall, unless he account for his presence to the satisfaction of the justices having cognizance of the case, be liable on summary conviction to a penalty not exceeding forty shillings for each offence.

In order to constitute a second or third offence previous offence need not have been committed within limited period.

16. In the following cases, that is to say,—

(1.) Where any person is convicted of an offence against the tenor or conditions of a licence granted to him under any of the said recited Acts, or of an offence for which a penalty is imposed by any of the said recited Acts;

(2.) Where any person is convicted of an offence against the tenor of a licence granted to him under the said Act of the ninth year of the reign of King George the Fourth:

if any previous conviction or convictions since the passing of this Act for any of the said offences be proved against him, the offence of which he is last convicted shall be deemed to be a second or third offence, as the case may be, notwithstanding that the said previous conviction or convictions did not take place within the time limited in that behalf by any of the said recited Acts or by the said Act of the reign of King George the Fourth.

A.D. 1869.

Management of houses licensed for sale of table beer.

17. All houses licensed for the sale of table beer under the Act twenty-fourth and twenty-fifth years of Victoria, chapter twenty-one, and all persons holding such licences, shall be subject and liable to all and every the regulations, restrictions, inspections, and penalties as to times of opening and closing of houses, conduct of persons conducting or carrying on the trade, and entry and inspection by the police or other peace officers, to which beerhouses, and persons licensed to keep the same, are subject and liable under the several statutes relating thereto.

Existing licences to be renewed, except in certain cases.

18. Where, on the first of May one thousand eight hundred and sixty-nine, a licence under any of the said recited Acts is in force with respect to any house or shop for the sale by retail therein of beer, cider, or wine to be consumed on the premises, it shall not be lawful for the justices to refuse an application for a certificate for the sale of beer, cider, or wine to be consumed on the premises in respect of such house or shop, except upon one or more of the grounds upon which an application for a certificate under this Act in respect of a licence for the sale of beer, cider, or wine, not to be consumed on the premises, may be refused, in accordance with this Act: Provided that where a person licensed in respect of such house or shop to sell therein by retail beer, cider, or wine to be consumed on the premises is convicted, after the passing of this Act, of more than one offence against the tenor of his licence, or of more than one offence for which any penalty is imposed by any of the said recited Acts, the justices by whom such person is convicted may, if they think fit, order that the house or shop shall, for the purposes of this section, be thenceforth deemed to be a house or shop in respect of which no licence for the sale by retail of beer, cider, or wine was in force at the time of the passing of this Act.

Saving clause.

19. Nothing in this Act contained shall be deemed to affect—

(1.) The privileges heretofore enjoyed by any university in England, or the respective chancellors or scholars of the same, or their successors:

(2.) The privileges heretofore enjoyed by the masters, wardens, freemen, and commonalty of the vintners of the city of London, except as to those freemen of the said vintners who have obtained their freedom by redemption only:

(3.) The privileges heretofore enjoyed by the mayor or burgesses of the city of St. Albans in the county of Hertford, or their successors:

A.D. 1869.

(4.) The right of any person who is duly authorized by justices of the peace to keep a common inn, alehouse, or victualling house to take out any excise licence:

(5.) The grant of any occasional licence, or the power of any person duly authorized by the excise to sell beer, spirits, or wine at any fair or public races.

Repeal of Acts.

20. The several parts of the Acts set forth in the second schedule hereto shall be repealed to the extent therein specified so far as relates to any licence under any of the said recited Acts granted after the passing of this Act within any place to which this Act applies: Provided that such repeal shall not affect—

(1.) Any liability incurred or thing duly done before the commencement of this Act:

(2.) Any penalty, forfeiture, or other punishment incurred in respect of any offence committed before the commencement of this Act:

(3.) Any legal proceeding or legal remedy for enforcing or recovering any such liability, thing, penalty, forfeiture, or punishment as aforesaid.

Act to be in force for two years.

21. This Act shall be in force for two years from the date of the passing thereof, and until the end of the then next session of Parliament.

FIRST SCHEDULE.

Form of Certificate.

We, the justices assembled [*or* being the majority of the justices assembled] at the general annual licensing meeting [*or* an adjournment of the general annual licensing meeting, *or* at a special petty session] of Her Majesty's justices of the peace acting for the division [*or* liberty, &c., *as the case may be*,] of in the county of holden on the day of one thousand eight hundred and do hereby authorize the grant to *A.B.* of in the county of of a licence or licences, if more than one be authorized, to sell by retail [beer, cider, *or* wine to be consumed on *or* off the premises] at a house [*or* shop] situate [*describe situation*].

Witness our hands, this day of

SECOND SCHEDULE.

Acts repealed.	Title of Act.	Extent of Repeal.
11 Geo. 4. & 1 Will. 4. c. 64.	An Act to permit the general sale of beer and cider by retail in England.	So much of section two as requires the grant of an Excise licence under the provisions of the Act to be made within ten days after application has been made for the same.
4 & 5 Will. 4. c. 85.	An Act to amend an Act passed in the first year of His present Majesty to permit the general sale of beer and cider by retail in England.	Sections two, three, eight, and nine.
3 & 4 Vict. c. 61.	An Act to amend the Acts relating to the general sale of beer and cider in England.	Sections two, three; so much of section four as enacts that in any extra-parochial place or places where no rates are made or collected for the relief of the poor a person applying for a licence shall produce to and deposit and leave with the proper officer of excise granting such licence a certificate in writing, signed by two inhabitant householders of the township or place, certifying that the party applying is the real resident in and occupier of the dwelling-house sought to be licensed, and also certifying the true and real annual value of the same with the premises occupied therewith, according to the best of their judgment and belief.—Sections five and six.
23 Vict. c. 27.	An Act for granting to Her Majesty certain duties on wine licences and refreshment houses, and for regulating the licensing of refreshment houses and the granting of wine licences.	Sections thirteen, fourteen, and fifteen.

Beerhouses, &c.

A

B I L L

[AS AMENDED IN COMMITTEE AND ON CONSIDERATION AS AMENDED]

To amend the law for licensing Beerhouses, and to make certain alterations with respect to the Sale by retail of Beer, Cider, and Wine.

(*Prepared and brought in by Mr. Selwin-Ibbetson, Mr. Akroyd, and Mr. Headlam.*)

Ordered, by The House of Commons, *to be Printed*, 1 *June* 1869.

[Bill 141.]

Under 2 *oz.*

A

B I L L

TO

Amend the Act for the regulation of Benefit Building Societies. A.D. 1869.

WHEREAS by an Act passed in the session of Parliament held in the sixth and seventh years of the reign of His late Majesty King William the Fourth, intituled "An Act for the regulation of Benefit Building Societies," after reciting that "certain societies, commonly called Building Societies, had been established in different parts of the kingdom, principally amongst the industrious classes, for the purpose of raising, by small periodical subscriptions, a fund to assist the members thereof in obtaining a small leasehold and freehold property, and that it was expedient to afford encouragement and protection to such Societies and the property obtained therewith, it was enacted that it should and might be lawful for any number of persons in Great Britain and Ireland to form themselves into and establish Societies for the purpose of raising by the monthly or other subscriptions of the several members of such Societies shares not exceeding the value of one hundred and fifty pounds for each share, (such subscriptions not to exceed in the whole twenty shillings per month for each share,) a stock or fund for enabling each member thereof to receive out of the funds of such Society the amount or value of his or her share or shares therein, to erect or purchase one or more dwelling house or dwelling houses, or other real or leasehold estate to be secured by way of mortgage to such Society, until the amount or value of his or her share shall have been fully repaid to such Society, with the interest thereon and all fines or other payments incurred in respect thereof;" and it was further enacted that it should be lawful to and for the members of each such Society as aforesaid "from time to time to assemble together, and to make, ordain, and constitute such wholesome and proper rules and regulations for the government and guidance of

A.D. 1869.

" the same as to the major part of the members of such Society " so assembled together should seem meet, so as such rules should " not be repugnant to the express provisions of the said Act and to " the general laws of the realm."

And whereas doubts have arisen whether it is lawful for societies so constituted as aforesaid to make, ordain, and constitute such rules and regulations as aforesaid, when the same are so framed that they enable the Society to borrow money for the use of the Society, or to raise money by means of paid-up shares:

And whereas it would greatly contribute to the promotion and advantage of Building Societies and to the security of the industrious classes who have invested their earnings therein, if all such doubts were removed, and if other provisions were made for protecting the funds of such Societies:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. No rule or regulation for the government or guidance of any Building Society which has been or may hereafter be in other respects duly made, ordained, and constituted, shall be deemed to be repugnant to the express provisions of the said recited Act or to the general laws of the realm because it provides for the borrowing of money for the purposes of the Society, or because it provides for the raising of money by the issue of shares commonly called or known as "fully paid up shares" or "realized deposit or preference shares."

2. The proper officer of every Building Society shall, once a year, lodge with the Registrar of Building Societies an account setting forth the funds of the Society, and how the same are invested, and distinguishing between funds raised by subscriptions on ordinary shares and funds raised by the means mentioned in the preceding section of this Act.

3. Any officer of a Building Society whose duty it is to render such account as aforesaid shall, for every omission so to do, forfeit *twenty pounds*, to be recovered in the county court of the district wherein the chief office of the Society is situated on the suit of any member of the Society, half of which sum shall be received by the plaintiff, and be applied by him to his own use, and the remainder shall be paid into the funds of the Society, and any officer rendering a false statement of account shall be deemed guilty of a misdemeanor.

4. The "proper officer" for the purposes of this Act is hereby declared to be the manager or secretary of the society or other the officer, by whatever title designated, who acts as manager. A.D. 1869.

Benefit Building Societies Regulation.

A

B I L L

To amend the Act for the Regulation of Benefit Building Societies.

(*Prepared and brought in by Mr. Gourley, Sir Roundell Palmer, and Mr. Stevenson.*)

Ordered, by The House of Commons, *to be Printed*, 4 *August* 1869.

[Bill 262.]

Under 1 *oz.*

Bishops Resignation Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Clause.

Preliminary.

1. Short title of Act.

Resignation.

2. Resignation of bishop.

Bishops Coadjutor.

3. Proceedings to prove the incapacity of a bishop.
4. Appointment of bishop coadjutor.
5. Relative positions of bishop and bishop coadjutor.

Supplemental Provisions.

6. Conduct of inquiry.
7. Proof of incapacity by bishop.
8. Expenses of an inquiry.
9. Death or resignation of a bishop coadjutor.

Sodor and Man.

10. Application of Act to the bishopric of Sodor and Man.

Application of Act to Archbishops.

11. Application of the Act to archbishops.

Translation of Bishops.

12. Provision as to translation of bishops.

Definitions.

13. Definitions.

Repeal.

14. Repeal of 6 & 7 Vict. c. 62.

A

B I L L

INTITULED

An Act for the relief of Archbishops and Bishops when incapacitated by infirmity. A.D. 1869.

WHEREAS it is expedient to provide for the relief of archbishops and bishops who by reason of age or any mental or bodily infirmity may be permanently incapacitated from the due performance of their episcopal duties:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited for all purposes as "The Bishops Resignation Act, 1869." Short title of Act.

Resignation.

2. On a representation being made to Her Majesty, in manner herein-after mentioned, that any archbishop or bishop in England is desirous of resigning his archbishopric or bishopric by reason that he is incapacitated by age or some mental or physical infirmity from the due performance of his duties as archbishop or bishop, it shall be lawful for Her Majesty, if satisfied of such incapacity, and that such archbishop or bishop has canonically resigned, by order in council to declare such archbishopric or bishopric to be vacant, and thereupon such vacancy may be filled up in the same manner and with the same incidents in all respects as if such archbishop or bishop were dead, with the exceptions following; that is to say, Resignation of bishop.

(1.) There shall be paid, by the year, to the retiring archbishop or bishop, out of the revenue of the archbishopric or bishopric, and as a first charge thereon in the hands of the successor, such one of the two sums herein-after mentioned as may be the greater, that is to say, one third part of the income enjoyed by the retiring archbishop or bishop before his retirement, or two thousand pounds; such yearly sums to accrue due from day to day but to

A.D. 1869.

be payable half-yearly: Provided that in the case of the retirement of any bishop appointed before the year one thousand eight hundred and thirty-two such retiring allowance shall be paid by the Ecclesiastical Commissioners for England out of their common fund.

(2.) Her Majesty may, by the Order in Council declaring the archbishopric or bishopric to be vacant, or by any subsequent Order in Council, assign to the retiring archbishop or bishop, for his residence during his life, any episcopal residence or residences hitherto occupied by him:

(3.) With the exception of the necessary expenses of his election and consecration, an archbishop or bishop succeeding to a retiring archbishop or bishop in pursuance of this section, shall not be required to pay the fees and charges usually payable on accession to an archbishopric or bishopric until the death of the retiring archbishop or bishop.

For the purposes of this section a representation shall be made to Her Majesty, in the case of a bishop desirous of resigning by the archbishop of the province at the instance of the bishop, and in the case of an archbishop by such archbishop himself.

Bishops Coadjutor.

Proceedings to prove the incapacity of a bishop.

3. If it appears to any archbishop on credible evidence that any bishop within his province is incapacitated, by reason of any mental infirmity, from the due performance of his episcopal duties, or that being permanently incapacitated from the performance of his episcopal duties by any bodily infirmity he has failed adequately to provide for such performance, he shall call to his aid two bishops of his province, and such archbishop and bishops shall inquire into the existence of such incapacity, and if satisfied thereof shall certify under their hands and seals the fact to one of Her Majesty's Principal Secretaries of State, together with the evidence on which their certificate is founded.

Appointment of bishop coadjutor.

4. Upon the receipt of such certificate it shall be lawful for Her Majesty to grant to the dean and chapter of the diocese a licence to proceed to the election of a bishop coadjutor, accompanied by a letter missive from Her Majesty containing the name of the person whom Her Majesty may desire to be appointed bishop coadjutor of the diocese to which the bishop certified to be incapacitated belongs, and the dean and chapter shall thereupon proceed in reference to the election of the person named as bishop coadjutor in the same manner in all respects as if a licence had been granted to them to proceed to the election of a bishop, accompanied by the usual letter missive, and the person named as bishop coadjutor, when so elected, shall be

confirmed and consecrated a bishop in like manner as if the bishopric of the incapacitated bishop were vacant. A.D. 1869.

Relative positions of bishop and bishop coadjutor.

5. The following enactments shall be made with respect to the relative positions of the incapacitated bishop, in this Act referred to as the bishop and his bishop coadjutor:

(1.) The bishop shall retain his rank, style, and privilege.

(2.) Subject to the annual payment by this Act directed to be made to the bishop coadjutor, the bishop shall retain all the temporalities of his see, except the patronage.

(3.) The bishop coadjutor shall not as such either be installed or sue the temporalities of the see out of the Queen's hands, or acquire any title to sit in the House of Lords. He shall be styled the bishop coadjutor of the diocese to which he is attached, and may subscribe himself by his usual signature with the addition of bishop, but not by the name of the diocese.

(4.) The bishop coadjutor shall not as such be required to pay any fees except the necessary expenses of his election and consecration.

(5.) Immediately upon the consecration of a bishop coadjutor the spiritualities of the see and the patronage of the bishop shall pass to and vest in the bishop coadjutor, in the same manner and to the same extent as if he were the sole bishop, and such bishop shall for all purposes and in all respects, except as by this Act otherwise provided, be deemed to be sole bishop of the diocese in which he is appointed bishop coadjutor.

(6.) There shall be paid to the bishop coadjutor out of the episcopal income of the bishop the sum of two thousand pounds by the year.

(7.) The said sum of two thousand pounds shall be deemed to be a first charge on the income of the bishop, and to accrue due from day to day, but to be payable half-yearly.

(8.) Upon the death of the bishop the bishop coadjutor shall succeed to his bishopric with the same ceremonies, upon the same payments, and in the same manner in all respects, except consecration, as if Her Majesty had granted to the dean and chapter of the diocese a licence to proceed to the election of a bishop, and such licence had been accompanied by a letter missive of Her Majesty naming the bishop coadjutor as the person whom the dean and chapter were required to elect and choose.

A.D. 1869.

(9.) When a bishop coadjutor has been appointed, and the bishop dies, no vacancy shall be created in the spiritualities of the bishopric to which the bishop coadjutor succeeds, but such spiritualities shall, in the case of the bishop coadjutor succeeding to the deceased bishop, remain vested in the bishop coadjutor.

Supplemental Provisions.

Conduct of inquiry.

6. The persons authorized under this Act to make an inquiry into the incapacity of a bishop shall give notice to the registrar of the diocese of a time and place at which the inquiry will be made, and the registrar, or any person authorized by or on behalf of the incapacitated bishop may attend such inquiry, and produce such evidence on behalf of the bishop as he thinks fit, and cross-examine the witnesses adduced to prove his incapacity and generally conduct the case on behalf of the bishop. The persons conducting the inquiry, or any of them, may examine witnesses on oath or not, in writing or orally, as they think expedient, and any person when examined by such persons who wilfully makes a false statement, whether on oath or not, shall be guilty of a misdemeanor. Any person refusing to give evidence when required, after a tender of his reasonable expenses, may be certified by any person conducting such inquiry to have so refused to any judge of one of Her Majesty's superior courts of law or equity, and such judge may deal with such person in the same way as if he had refused to give evidence in a proceeding instituted in the court of which he is judge.

Proof of incapacity by bishop.

7. If any bishop has been found by due process of law to be a lunatic or of unsound mind, the archbishop may dispense with an inquiry and certify to Her Majesty under his hand and seal the incapacity of such bishop, and such certificate shall for the purposes of this Act have the same effect in all respects as if it were the certificate of the archbishop and two bishops made in pursuance of this Act.

Expenses of an inquiry.

8. The expences of any inquiry under this Act into the incapacity of a bishop shall be certified under the hands of any two persons authorized to conduct the inquiry, and when so certified, shall be defrayed out of the revenues of the bishopric.

Death or resignation of a bishop coadjutor.

9. If any bishop coadjutor dies or resigns the same consequences shall ensue, and the same powers in relation to a bishop coadjutor shall accrue to Her Majesty as upon the receipt of a certificate under this Act that the bishop of the diocese is incapacitated by mental infirmity from the due performance of his episcopal duties.

Sodor and Man.

A.D. 1869.

Application of Act to the bishopric of Sodor and Man.

10. This Act shall apply to the bishopric of Sodor and Man in the same manner in all respects as if it were a bishopric in England, with the following exceptions:—

(1.) If the Bishop of Sodor and Man resign, his retiring pension shall be one thousand pounds a year:

(2.) If a coadjutor be appointed to the Bishop of Sodor and Man the yearly sum payable to such bishop coadjutor shall be one thousand pounds a year:

(3.) The Bishop of Sodor and Man shall not be translated to any diocese of which a bishop coadjutor has been appointed.

Application of Act to Archbishops.

Application of the Act to archbishops.

11. A bishop coadjutor may be appointed in the case of an archbishop being incapacitated by reason of mental infirmity from the due performance of his duties, in the same manner in all respects as if such archbishop were a bishop and his archbishopric a bishopric, and all the provisions of this Act shall apply accordingly with the following additions and exceptions:—

(1.) That where the incapacity of an archbishop is in question there shall in the inquiry be substituted for the archbishop such bishop of his province as Her Majesty may by sign manual determine, on its being certified to Her Majesty by any two bishops of the province that the archbishop is incapacitated by mental infirmity from the due performance of his duties, and the nominee of Her Majesty shall in all respects for the purposes of this Act exercise the powers of an archbishop.

(2.) That in the case of the Archbishop of York the bishop coadjutor shall be entitled to a salary of three thousand pounds a year, and in the case of the Archbishop of Canterbury to a salary of four thousand pounds a year.

(3.) That the archiepiscopal jurisdiction capable of being exercised by the archbishop shall be exercised by the bishop of the province who is senior in rank.

Translation of Bishops.

Provision as to translation of bishops.

12. Notwithstanding the appointment of a bishop coadjutor, Her Majesty may in the case of the archbishopric of Canterbury, the archbishopric of York, or any of the bishoprics of London, Durham, or Winchester, on the death of the archbishop or bishop, exercise

A.D. 1869.

the same right of translation as if no bishop coadjutor had been appointed, so that such right be so exercised as to leave an archbishopric or bishopric vacant for the bishop coadjutor, and in the event of any translation or translations taking place, the bishop coadjutor shall be entitled to succeed to any archbishopric or bishopric thereby left vacant in the same manner in all respects as if he were a bishop and not a bishop coadjutor, and had been translated to such vacant archbishopric or bishopric.

Definitions.

Definitions.

13. In this Act,—

"Temporalities" shall include all real and personal property held by any archbishop or bishop as such, and all fees and emoluments receivable by him by virtue of his office:

"Spiritualities" shall include all episcopal and other jurisdiction of whatever description exercisable by an archbishop or bishop:

"Patronage" shall include all advowsons, rights of presentation to benefices, and any ecclesiastical or cathedral preferment or dignity, and all other appointments to office exercisable by an archbishop or bishop by reason of his office.

Repeal.

Repeal of 6 & 7 Vict. c. 62.

14. There shall be repealed the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter sixty-two, intituled "An Act to provide for the performance of the "episcopal functions in case of the incapacity of any bishop or "archbishop;" provided that such repeal shall not affect any proceeding commenced, any right acquired, or any act or thing duly done, under such repealed Act.

Bishops Resignation

[H.L.]

A

B I L L

INTITULED

An Act for the relief of Archbishops and Bishops when incapacitated by infirmity.

(*Brought from the Lords* 22 *July* 1869.)

Ordered, by The House of Commons, *to be Printed,* 26 *July* 1869.

[Bill 241.]

Under 1 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act for the relief of Archbishops and Bishops when incapacitated by infirmity. A.D. 1869.

WHEREAS it is expedient to provide for the relief of archbishops and bishops who by reason of age or any mental or bodily infirmity may be permanently incapacitated from the due performance of their episcopal duties:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited for all purposes as "The Bishops Resignation Act, 1869." Short title of Act.

Resignation.

2. On a representation being made to Her Majesty, in manner herein-after mentioned, that any archbishop or bishop in England is desirous of resigning his archbishopric or bishopric by reason that he is incapacitated by age or some mental or permanent physical infirmity from the due performance of his duties as archbishop or bishop, it shall be lawful for Her Majesty, if satisfied of such incapacity, and that such archbishop or bishop has canonically resigned, by order in council to declare such archbishopric or bishopric to be vacant, and thereupon such vacancy may be filled up in the same manner and with the same incidents in all respects as if such archbishop or bishop were dead, with the exceptions following; that is to say, Resignation of bishop.

(1.) There shall be paid, by the year, to the retiring archbishop or bishop, out of the revenue of the archbishopric or bishopric, and as a first charge thereon in the hands of the successor, such one of the two sums herein-after mentioned as may be the greater, that is to say, one third part of the income enjoyed by the retiring archbishop or bishop before his retirement, or two thousand pounds; such yearly sums to accrue due from day to day but to

A.D. 1869.

be payable half-yearly: Provided that if in the case of the retirement of any bishop appointed before the year one thousand eight hundred and thirty-two such retiring allowance shall exceed the sum of two thousand pounds, the excess shall be paid by the Ecclesiastical Commissioners for England out of their common fund.

(2.) Her Majesty may, upon special grounds, by the Order in Council declaring the archbishopric or bishopric to be vacant, or by any subsequent Order in Council, assign to the retiring archbishop or bishop, for his residence during his life, any episcopal residence hitherto occupied by him:

(3.) With the exception of the necessary expenses of his election and consecration, an archbishop or bishop succeeding to a retiring archbishop or bishop in pursuance of this section, shall not be required to pay the fees and charges usually payable on accession to an archbishopric or bishopric until the death of the retiring archbishop or bishop.

For the purposes of this section a representation shall be made to Her Majesty, in the case of a bishop desirous of resigning by the archbishop of the province at the instance of the bishop, and in the case of an archbishop by such archbishop himself.

Bishops Coadjutor.

Proceedings to prove the incapacity of a bishop.

3. If it appears to any archbishop on credible evidence that any bishop within his province is incapacitated by reason of permanent mental infirmity from the due performance of his episcopal duties, he shall call to his aid two bishops of his province, and such archbishop and bishops shall inquire into the existence of such incapacity, and if satisfied thereof shall certify under their hands and seals the fact to one of Her Majesty's Principal Secretaries of State, together with the evidence on which their certificate is founded.

Appointment of bishop coadjutor.

4. Upon the receipt of such certificate it shall be lawful for Her Majesty to grant to the dean and chapter of the diocese a licence to proceed to the election of a bishop coadjutor, accompanied by a letter missive from Her Majesty containing the name of the person whom Her Majesty may desire to be appointed bishop coadjutor of the diocese to which the bishop certified to be incapacitated belongs, and the dean and chapter shall thereupon proceed in reference to the election of the person named as bishop coadjutor in the same manner in all respects as if a licence had been granted to them to proceed to the election of a bishop, accompanied by the usual letter missive, and the person named as bishop coadjutor, when so elected, shall be

confirmed and consecrated a bishop in like manner as if the bishopric of the incapacitated bishop were vacant. A.D. 1869

5. The following enactments shall be made with respect to the relative positions of the incapacitated bishop, in this Act referred to as the bishop and his bishop coadjutor: Relative positions of bishop and bishop coadjutor.

(1.) The bishop shall retain his rank, style, and privilege.

(2.) Subject to the annual payment by this Act directed to be made to the bishop coadjutor, the bishop shall retain all the temporalities of his see, except the patronage.

(3.) The bishop coadjutor shall not as such either be installed or sue the temporalities of the see out of the Queen's hands, or acquire any title to sit in the House of Lords. He shall be styled the bishop coadjutor of the diocese to which he is attached, and may subscribe himself by his usual signature with the addition of bishop, but not by the name of the diocese.

(4.) The bishop coadjutor shall not as such be required to pay any fees except the necessary expenses of his election and consecration.

(5.) Immediately upon the consecration of a bishop coadjutor the spiritualities of the see and the patronage of the bishop shall pass to and vest in the bishop coadjutor, in the same manner and to the same extent as if he were the sole bishop, and such bishop shall for all purposes and in all respects, except as by this Act otherwise provided, be deemed to be sole bishop of the diocese in which he is appointed bishop coadjutor.

(6.) There shall be paid to the bishop coadjutor out of the episcopal income of the bishop the sum of two thousand pounds by the year.

(7.) The said sum of two thousand pounds shall be deemed to be a first charge on the income of the bishop, and to accrue due from day to day, but to be payable half-yearly.

(8.) Upon the death of the bishop the bishop coadjutor shall succeed to his bishopric with the same ceremonies, upon the same payments, and in the same manner in all respects, except consecration, as if Her Majesty had granted to the dean and chapter of the diocese a licence to proceed to the election of a bishop, and such licence had been accompanied by a letter missive of Her Majesty naming the bishop coadjutor as the person whom the dean and chapter were required to elect and choose.

A.D. 1869.

(9.) When a bishop coadjutor has been appointed, and the bishop dies, no vacancy shall be created in the spiritualities of the bishopric to which the bishop coadjutor succeeds, but such spiritualities shall, in the case of the bishop coadjutor succeeding to the deceased bishop, remain vested in the bishop coadjutor.

Supplemental Provisions.

Conduct of inquiry.

6. The persons authorized under this Act to make an inquiry into the incapacity of a bishop shall give notice to the registrar of the diocese of a time and place at which the inquiry will be made, and the registrar, or any person authorized by or on behalf of the incapacitated bishop may attend such inquiry, and produce such evidence on behalf of the bishop as he thinks fit, and cross-examine the witnesses adduced to prove his incapacity and generally conduct the case on behalf of the bishop. The persons conducting the inquiry, or any of them, may examine witnesses on oath or not, in writing or orally, as they think expedient, and any person when examined by such persons who wilfully makes a false statement, whether on oath or not, shall be guilty of a misdemeanor. Any person refusing to give evidence when required, after a tender of his reasonable expenses, may be certified by any person conducting such inquiry to have so refused to any judge of one of Her Majesty's superior courts of law or equity, and such judge may deal with such person in the same way as if he had refused to give evidence in a proceeding instituted in the court of which he is judge.

Proof of incapacity by bishop.

7. If any bishop has been found by due process of law to be a lunatic or of unsound mind, the archbishop may dispense with an inquiry and certify to Her Majesty under his hand and seal the incapacity of such bishop, and such certificate shall for the purposes of this Act have the same effect in all respects as if it were the certificate of the archbishop and two bishops made in pursuance of this Act.

Expenses of an inquiry.

8. The expences of any inquiry under this Act into the incapacity of a bishop shall be certified under the hands of any two persons authorized to conduct the inquiry, and when so certified, shall be defrayed out of the revenues of the bishopric.

Clause A. Apportionment of first fruits and tenths.

9. The annual charge payable in respect of first fruits and tenths shall, in the case of the appointment of any bishop coadjutor, be paid by such coadjutor and the bishop in proportion to the income received by them respectively in pursuance of this Act.

A.D. 1869.

Death or resignation of a bishop coadjutor.

10. If any bishop coadjutor dies or resigns the same consequences shall ensue, and the same powers in relation to a bishop coadjutor shall accrue to Her Majesty as upon the receipt of a certificate under this Act that the bishop of the diocese is incapacitated by mental infirmity from the due performance of his episcopal duties.

Sodor and Man.

Application of Act to the bishopric of Sodor and Man.

11. This Act shall apply to the bishopric of Sodor and Man in the same manner in all respects as if it were a bishopric in England, with the following exceptions :—

(1.) If the Bishop of Sodor and Man resign, his retiring pension shall be one thousand pounds a year :

(2.) If a coadjutor be appointed to the Bishop of Sodor and Man the yearly sum payable to such bishop coadjutor shall be one thousand pounds a year :

(3.) The Bishop of Sodor and Man shall not be translated to any diocese of which a bishop coadjutor has been appointed.

Application of Act to Archbishops.

Application of the Act to archbishops.

12. A bishop coadjutor may be appointed in the case of an archbishop being incapacitated by reason of permanent mental infirmity from the due performance of his duties, in the same manner in all respects as if such archbishop were a bishop and his archbishopric a bishopric, and all the provisions of this Act shall apply accordingly with the following additions and exceptions :—

(1.) That where the incapacity of an archbishop is in question there shall in the inquiry be substituted for the archbishop such bishop of his province as Her Majesty may by sign manual determine, on its being certified to Her Majesty by any two bishops of the province that the archbishop is incapacitated by permanent mental infirmity from the due performance of his duties, and the nominee of Her Majesty shall in all respects for the purposes of this Act exercise the powers of an archbishop.

(2.) That in the case of the Archbishop of York the bishop coadjutor shall be entitled to a salary of three thousand pounds a year, and in the case of the Archbishop of Canterbury to a salary of four thousand pounds a year.

(3.) That the archiepiscopal jurisdiction capable of being exercised by the archbishop shall be exercised by the bishop of the province who is senior in rank.

A.D. 1869.

Translation of Bishops.

Provision as to translation of bishops.

13. Notwithstanding the appointment of a bishop coadjutor, Her Majesty may in the case of the archbishopric of Canterbury, the archbishopric of York, or any of the bishoprics of London, Durham, or Winchester, on the death of the archbishop or bishop, exercise the same right of translation as if no bishop coadjutor had been appointed, so that such right be so exercised as to leave an archbishopric or bishopric vacant for the bishop coadjutor, and in the event of any translation or translations taking place, the bishop coadjutor shall be entitled to succeed to any archbishopric or bishopric thereby left vacant in the same manner in all respects as if he were a bishop and not a bishop coadjutor, and had been translated to such vacant archbishopric or bishopric.

Definitions.

Definitions.

14. In this Act,—

"Temporalities" shall include all real and personal property held by any archbishop or bishop as such, and all fees and emoluments receivable by him by virtue of his office:

"Spiritualities" shall include all episcopal and other jurisdiction of whatever description exercisable by an archbishop or bishop:

"Patronage" shall include all advowsons, rights of presentation to benefices, and any ecclesiastical or cathedral preferment or dignity, and all other appointments to office exercisable by an archbishop or bishop by reason of his office.

Repeal.

Repeal of 6 & 7 Vict. c. 62.

15. There shall be repealed the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter sixty-two, intituled "An Act to provide for the performance of the "episcopal functions in case of the incapacity of any bishop or "archbishop;" provided that such repeal shall not affect any proceeding commenced, any right acquired, or any act or thing duly done, under such repealed Act.

Clause B. Duration of Act.

16. This Act shall remain in force for two years, and further until the end of the then next ensuing session of Parliament.

Bishops Resignation.

[H.L.]

A

BILL

[AS AMENDED IN COMMITTEE]

INTITULED

An Act for the relief of Archbishops and Bishops when incapacitated by infirmity.

(*Brought from the Lords 22 July* 1869.)

Ordered, by The House of Commons, *to be Printed,* 5 *August* 1869.

[Bill 263.]

Under 1 *oz.*

A

BILL

INTITULED

An Act for repealing the Act of the session of the eighth and ninth years of the reign of Her present Majesty, chapter one hundred and twenty-two. A.D. 1869.

WHEREAS by an Act passed in the session of the eighth and ninth years of the reign of Her present Majesty, chapter one hundred and twenty-two, and intituled "An Act to amend an Act, "intituled 'An Act to carry into execution a convention between "'His Majesty and the Emperor of Brazil for the regulation and "'final abolition of the African slave trade,'" provision is made for carrying into execution in manner therein mentioned a certain convention between His late Majesty King George the Fourth and the Emperor of Brazil for the regulation and final abolition of the African slave trade: And whereas the circumstances which led to the passing of the said Act no longer exist by reason of the cessation of the importation of slaves into Brazil from Africa: 8 & 9 Vict. c. 122.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The said Act of the session of the eighth and ninth years of the reign of Her present Majesty, chapter one hundred and twenty-two, is hereby repealed; provided that such repeal shall not affect any operation already effected by, or declaration of validity or of indemnity contained in, the said Act, or any right, title, obligation, or liability already acquired or accrued, or act done, under or by virtue of the said Act. Repeal of 8 & 9 Vict. c. 122.

2. This Act may be cited for all purposes as "The Brazilian Slave Trade Repeal Act, 1869." Short title of Act.

Brazilian Slave Trade.
[H.L.]

A

B I L L

INTITULED

An Act for repealing the Act of the session of the eighth and ninth years of the reign of Her present Majesty, chapter one hundred and twenty-two.

(*Brought from the Lords* 9 *March* 1869.)

Ordered, by The House of Commons, *to be Printed,*
17 *March* 1869.

[Bill 58.]

Under 1 *oz.*

A

B I L L

TO

Confirm a Provisional Order under "The General Police and Improvement (Scotland) Act, 1862," relating to the Burgh of Broughty Ferry. A.D. 1869.

WHEREAS the Secretary of State for the Home Department, being one of Her Majesty's Principal Secretaries of State, has, under the provisions of "The General Police and Improve-" ment (Scotland) Act, 1862," (25 & 26 Victoria, c. 101), duly made a Provisional Order, which is contained in the schedule to this Act annexed, and it is provided by the said Act that no such Order shall be of any validity until it has been confirmed by Parliament, and it is expedient that the said Order should be confirmed:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Confirmation of Provisional Order.

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed, and shall, from and after the passing of this Act, be absolute, and be as binding and of the like force and effect as if the provisions of the same had been specially enacted in this Act.

A.D. 1869.

SCHEDULE referred to in the foregoing Act.

BROUGHTY FERRY.

General Police and Improvement (Scotland) Act, 1862.

(25 & 26 Victoria, chapter 101.)

Whereas by "The General Police and Improvement (Scotland) Act, 1862," it is, inter alia, enacted, clause 79, that "whenever it appears desirable to "the magistrates and council or commissioners of police of any royal or parliamentary burgh, or to the commissioners for executing this Act in any burgh "or populous place, that provision should be made in order the better to apply "and execute therein the provisions of this Act in whole or in part, or for the "future application and execution of any Acts in force therein having relation "to the purposes of this Act, or to the roads or streets within such burgh or "populous place, or to any other matter or thing connected with the management and administration of the municipal or police affairs of such burgh "or populous place, or that any such Acts, or any exemptions from rating "therefrom derived, or that any Provisional Order or Order in Council applying "this Act hereby authorized to be made, should be wholly or partially "repealed or altered:

"Or whenever it appears desirable to the magistrates and council of any royal "or parliamentary burgh, where there is a board of commissioners of police "separate from such magistrates and council, to unite the municipal and police "government and jurisdiction of any such royal or parliamentary burgh in the "magistrates and council thereof, to transfer to them all the powers and jurisdictions of police, paving, lighting, watching, and others granted to the "commissioners of police by any local Acts, and to extend such jurisdiction "over the whole limits of such burgh:

"Or whenever it appears desirable to the magistrates and councils or the "commissioners of police of contiguous burghs that provision should be made "for executing any great conduits or main sewers or any other drainage "works necessary for the more effectually draining of such contiguous burghs:

"(1.) The magistrates and council or the commissioners of any burgh, or the "magistrates and councils or commissioners of contiguous burghs, "as the case may be, may present a petition to one of Her Majesty's "Principal Secretaries of State, praying for such provision, repeal, and "alteration as aforesaid, or for any of such things; and such petition "shall be supported by such evidence as the said Secretary requires:

A.D. 1869.

"(2.) Upon the receipt of any such petition inquiry may be directed by "such Secretary of State in the district in respect to the several "matters mentioned in the petition, after giving fourteen days' notice "of the time, place, and subject of the inquiry, and if requisite the "sheriff shall proceed to the district to make the inquiry:

"(3.) The sheriff shall for the purposes of the inquiry have power to call for "such information from the magistrates and councils or commissioners "of police as he may consider necessary, and to do all such matters "and things as may be expedient for the purposes of the inquiry:

"(4.) It shall be lawful for any of Her Majesty's Principal Secretaries of "State to issue a Provisional Order under his hand and seal of office "in relation to the several things mentioned in the said petition, "either in accordance with the prayer thereof or with such modifica- "tions or alterations as may appear to him to be requisite:"

And whereas "The General Police and Improvement (Scotland) Act, 1862," and "The General Police and Improvement (Scotland) Act, 1862, Amendment Act, (1868,)" and the Act 31 Victoria, chapter 12, intituled "An Act to confirm a Provisional Order under 'The General Police and Im- "provement (Scotland) Act, 1862,' relating to the burgh of Broughty Ferry," are in force within the burgh of Broughty Ferry:

And whereas by clause 114 of "The General Police and Improvement (Scotland) Act, 1862," it is enacted that "the commissioners of burghs autho- "rized by this Act to maintain constables shall from time to time appoint at "a fixed annual salary a superintendent of police, who shall not be removable "or subject to have his salary diminished by the commissioners unless with "the approbation of the chief magistrate of the burgh or of the senior magis- "trate of police and the sheriff, or, in case of their differing in opinion, of Her "Majesty's Advocate for the time being; and as often as such commissioners "shall fix the number of constables which they shall judge necessary for the "burgh the said superintendent of police is hereby authorized and empowered "to appoint proper persons for the duty, and to direct their distribution within "the burgh, and to remove them at pleasure; and the superintendent of police "may also be appointed surveyor of paving and draining and inspector of "cleansing: Provided always, that no burgh to be established in virtue of "this Act shall be entitled to maintain constables in terms of this Act unless "the population of such burgh shall, according to the last census for the time "being, amount to seven thousand or upwards, it being hereby declared that "the true intent and meaning of this Act in that respect is that all such burghs "shall in regard to constables be subject to or regulated by the County "Police Act, twentieth and twenty-first of Victoria, chapter seventy-two, "anything in this Act to the contrary notwithstanding:"

And whereas the population of the said burgh of Broughty Ferry amounts to upwards of five thousand, but does not, according to the last census, amount to seven thousand, and the said burgh is not entitled to maintain constables in terms of "The General Police and Improvement (Scotland) Act, 1862:"

A.D. 1869.

AND WHEREAS, in virtue of the powers contained in the Act 20 & 21 Victoria, chapter 72, sections 58 and 59, the said burgh of Broughty Ferry has been formed into a separate police district of the county of Forfar, and the number of constables to be appointed for such district has been declared as one sergeant and three constables, and one sergeant and three constables have accordingly been appointed therefor:

AND WHEREAS, by clause 411 of "The General Police and Improvement (Scotland) Act, 1862," it is inter alia enacted that "all actions, prosecutions, and "proceedings for crimes and offences committed within the burgh, or for the "recovery of fines, penalties, forfeitures, or expenses under the police provisions "of this Act, the mode of recovering which is not herein otherwise provided for, "shall be sued for before the magistrates of police in the police court at the "instance of the procurator fiscal to be appointed as herein authorized:"

AND WHEREAS doubts have arisen whether a police court can be established in the said burgh of Broughty Ferry until the inhabitants thereof amount to seven thousand, and until the commissioners of police of the said burgh shall appoint a superintendent of police and constables for the said burgh in terms of clause 114 of the first-recited Act; and it is desirable to remove these doubts and to give the necessary powers for enabling a police court to be established, and also for making other arrangements for the better watching and police of the said burgh:

AND WHEREAS a petition under the provisions of "The General Police and Improvement (Scotland) Act, 1862," has been presented to me as one of Her Majesty's Principal Secretaries of State by the commissioners of police of the said burgh of Broughty Ferry, praying for the issue of a Provisional Order authorizing the establishing of a police court within the said burgh, and also authorizing the constables of the county police for the county of Forfar, stationed and to be stationed within the district of Broughty Ferry, to act within the said burgh under "The General Police and Improvement (Scotland) Act, 1862," in all respects as if they had been appointed by the commissioners of police in virtue of that Act:

AND WHEREAS due inquiry has been directed and held in respect of the matters mentioned in the said petition:

NOW, THEREFORE, in pursuance of the powers vested in me by "The "General Police and Improvement (Scotland) Act, 1862," I, as one of Her Majesty's Principal Secretaries of State, do, by this Provisional Order under my hand and seal of office, direct that from and after the passing of any Act of Parliament confirming the same,—

1. The following words and expressions in this Provisional Order shall, for the purposes hereof and of the recited Acts, and of the "Public Health (Scotland) Act, 1867," and all that has followed or may hereafter follow thereon, in or regarding the said burgh of Broughty Ferry, have the several meanings hereby assigned to them; viz., "Police Act" shall

mean "The General Police and Improvement (Scotland) Act, 1862;" "Broughty Ferry" and "burgh of Broughty Ferry" shall mean the burgh of Broughty Ferry, according to its present boundaries and also according as its boundaries may from time to time hereafter be revised and extended; "commissioners of police" and "commissioners" shall mean the commissioners of police of Broughty Ferry; "magistrates" shall mean the magistrates of Broughty Ferry; "superintendent of police" and "superintendent" shall mean the sergeant or chief officer of police stationed in Broughty Ferry; "county police constables" and "constables" shall mean the sergeant and constables of police of the said county of Forfar stationed or to be stationed in the said district of Broughty Ferry; and "district" shall mean the county police district of Broughty Ferry, according to its present boundaries and also according as its boundaries may from time to time hereafter be extended in virtue of this Provisional Order.

2. It shall be lawful for the magistrates, with the consent in writing of the chief constable of the county of Forfar, to appoint from time to time by writing, and during pleasure, as procurator fiscal for the burgh of Broughty Ferry, any one of the constables of the county police of Forfarshire; and it shall be lawful for the chief constable of the county of Forfar to appoint, and the said chief constable shall, on the written requisition of the magistrates, or a majority of their number, appoint as constables for the burgh of Broughty Ferry the whole or any one or more of the county police constables stationed in Broughty Ferry, and such constables so appointed shall, in addition to the powers and duties competent to or incumbent on them as county constables, have all such and the like powers, duties, and privileges as by the Police Act are conferred or made incumbent on the superintendent of police and constables authorized to be appointed under clause 114 of the Police Act.

3. All warrants and deliverances which may be issued by the magistrates shall be served and executed by any one of the constables to be appointed in virtue of this Provisional Order excepting the constable holding the office of procurator fiscal.

4. Without prejudice to the Police Act, and to the adoption which has been made of the whole parts, sections, and clauses thereof within the burgh of Broughty Ferry, clause 125 and the whole of part VI., section VI., thereof, excepting clause 429, are incorporated with and declared to form part of this Provisional Order, and to be in force within and applicable to the burgh of Broughty Ferry from and after the date of any Act of Parliament confirming this Provisional Order.

5. It shall be lawful for any magistrate of Broughty Ferry, without the necessity of any complaint, to direct the chief constable to remove any constable under him, acting under or in virtue of the Police Act and this Provisional Order, whose conduct in any proceedings that shall form the subject of investigation before such magistrate shall in the opinion of such magistrate render such constable unfit to be any longer retained

A.D. 1869.

in the police establishment of Broughty Ferry, and such constable shall be removed from Broughty Ferry accordingly.

6. This Provisional Order shall apply to and include the revised and extended boundaries of the burgh of Broughty Ferry according as the boundaries of the said burgh may from time to time hereafter be revised and extended.

7. All expenses incurred and to be incurred in obtaining this Provisional Order, and connected therewith and incidental thereto, and in carrying the same into execution, shall be assessed for and defrayed out of the police assessments authorized by the Police Act to be levied within the burgh of Broughty Ferry, but no sergeant or constable acting under the recited Acts or this Provisional Order shall be entitled to any pay or remuneration for so acting.

8. It shall be lawful for the commissioners of police to contract and agree with the commissioners of supply for the county of Forfar to pay to the said commissioners of supply annually such sums as may from year to year be found requisite for the purposes of the Act 20 & 21 Victoria, chapter 72, within the district of Broughty Ferry; and, in the event of such contract being entered into, all powers to assess for the purposes of the said Act 20 & 21 Victoria, chapter 72, within the district of Broughty Ferry, shall, so long as such contract subsists and the sums thereby contracted to be paid by the police commissioners are duly paid, be suspended; and the commissioners of police shall be entitled to assess for and pay the said sums out of the police assessments authorized by the Police Act to be levied within the burgh of Broughty Ferry.

9. It shall be lawful for the commissioners of police to purchase, feu, or lease ground and premises within the burgh of Broughty Ferry, and to build thereon cells and other premises for the accommodation of the county police establishment, and to give the use of the same rent free to such police establishment, and to defray the costs and expenses thereof out of the said police assessments.

10. It shall be lawful for the commissioners and magistrates, in place of appointing a superintendent of police, and bringing part III., section II. of the Police Act into operation within the burgh of Broughty Ferry, to continue to act under this Provisional Order, although the population of the said burgh may at any time, according to the last census for the time, amount to seven thousand or upwards; but without prejudice to their appointing a superintendent of police, and bringing the said part and section of the Police Act into operation within the burgh of Broughty Ferry, at any time they shall see fit to do so after the population shall amount to seven thousand.

11. In the event of the commissioners of police appointing a superintendent of police for the burgh of Broughty Ferry in virtue of clause 114 of the Police Act, and otherwise bringing part III., section II. of the Police Act into operation within the said burgh, sections 2 and 3 of this Provisional Order, and also the said Act 20 & 21 Victoria, chapter 72, shall cease to be in force within the said burgh, and all powers of assess-

ment within the said burgh under or for the purposes of the said Act 20 & 21 Victoria, chapter 72, shall thenceforth cease and determine, and the whole property and effects of the police establishment in the district of Broughty Ferry, so far as belonging to the commissioners of supply of the county of Forfar, shall be transferred to the commissioners of police under the burden of any special debt or proportion of general debt for police purposes effeiring to the district of Broughty Ferry that may have been contracted by the commissioners of supply of the county of Forfar with consent of the commissioners of police. A.D. 1869.

Given under my hand and seal this day of One thousand eight hundred and sixty-nine.

(L.S.) (Signed) H. A. Bruce.

Broughty Ferry Provisional Order Confirmation.

A

BILL

To confirm a Provisional Order under "The General Police and Improvement (Scotland) Act, 1862," relating to the Burgh of Boughty Ferry.

(*Prepared and brought in by The Lord Advocate and Mr. Adam.*)

Ordered, by The House of Commons, *to be Printed*, 2 *August* 1869.

[Bill 254.]

Under 1 *oz.*

A

B I L L

TO

Amend the law which regulates the burials of persons in England not belonging to the Established Church. A.D. 1869.

WHEREAS it is expedient to amend the law of burial in England:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

When burials of persons not belonging to United Church of England and Ireland take place in burial grounds of such church, ministers, &c. of other denominations may perform service.

1. That whenever, after the *passing of this Act*, any person who at the time of his or her death shall not have been a member of and in communion with the United Church of England and Ireland shall be buried within any churchyard or graveyard the soil or freehold whereof shall be vested in any rector, vicar, or other incumbent, it shall be lawful for the minister or priest of the religious denomination to which such person shall have belonged at the time of his or her death, and he is hereby empowered, to attend such burial, and to read or to offer such prayers or perform such burial service at the grave in such churchyard or graveyard as is usual and customary at burial of persons belonging to such religious denomination; and any person wilfully obstructing such prayers or burial service shall be deemed guilty of a misdemeanor: Provided always, that such prayers shall not be read or offered, nor such burial service be performed either wholly or in part during the time of the celebration of divine service or any rite or ceremony of the said United Church, or during the catechising or other instruction of children or young persons in the church or chapel to which such churchyard or graveyard belongs, nor within half an hour before the commencement or after the conclusion of any such celebration, catechising, or instruction, nor during the time at which the incumbent or minister of such church or chapel, or any other minister or other ecclesiastical person, shall be performing the burial service in such churchyard or graveyard, nor during the performance of any other burial service therein: Provided always, that nothing in this Act shall confer any right of burial where no such right already

A.D. 1869.

exists, or shall affect the rights or privileges of any ordinary, rector, vicar, or other incumbent: Provided further, that Her Majesty's subjects of the Quaker and Baptist denominations shall be deemed as of equal rights in respect to burial with other denominations not members of and in communion with the said Church.

Prohibition of interference with burials.

2. Nothing herein contained shall authorize or justify any interference with or interruption of the celebration of divine service in the church or chapel to which such churchyard or graveyard may be attached or belong, or the obstruction of persons going thereto or returning therefrom.

Notice to be given of the time at which it is proposed that the burial shall take place.

3. Such minister or priest who may propose to attend such burial shall, *twenty-four hours* before the reading of such prayers or the performance of such burial services, serve or cause to be served upon the person appointed by the rector, vicar, or other incumbent of the parish to receive such notice, or upon the minister, vicar, or incumbent, or left at the vestry for him, a notice in writing, signed with his name, stating the name and late residence of the person about to be buried, and the hour at which he purposes to read or to offer such prayers or perform such burial service; and if there be no celebration, catechising, or instruction already appointed to take place or other burial service appointed to be performed at the time specified in such notice, of which he is to be then and there informed, he shall read or offer such prayers or perform such service at the time for which he has given notice; but if any celebration, catechising, instruction, or other burial service shall have been already appointed, then he shall appoint some other convenient time before or after such celebration, catechising, instruction, or other burial service.

Power to exempt certain churchyards.

4. And whereas many parish churches have of late years been erected on a new site, having attached to them small churchyards given or purchased for the sole use of persons attending the worship of the church, and in size proportioned to the wants of the congregation, leaving the old churchyard for the general use of the parishioners: And whereas many perpetual cures and district parishes have been erected of late years, and churches built in them, with small graveyards, intended solely for the use of the congregations of such churches: Be it therefore enacted, that it shall be lawful for Her Majesty's Secretary of State for the Home Department, on application from the incumbent of any such church, to declare the same to be exempt, and which exemption shall be published in the London Gazette, and thereupon such churchyards shall be exempted from the operation of this Act.

Extent of Act.

5. This Act shall extend only to England (inclusive of the principality of Wales).

Burials Regulation.

A

B I L L

To amend the law which regulates the burials of persons in England not belonging to the Established Church.

(*Prepared and brought in by Mr. Hadfield, Mr. Charles Reed, Mr. Henry Richard, and Mr. Candlish.*)

Ordered, by The House of Commons, *to be Printed*, 2 *March* 1869.

[Bill 33.]

Under 1 *oz.*

A

B I L L

FOR

Authorizing a guarantee of a loan to be raised by Canada for a payment in respect of the transfer of Rupert's Land. A.D. 1869.

WHEREAS by the Rupert's Land Act, 1868, power was given for the Governor and Company of Adventurers of England trading into Hudson's Bay (in this Act referred to as the Hudson's Bay Company) to surrender, and for Her Majesty to accept a surrender of Rupert's Land (as therein defined) for the purpose of admitting the same into the dominion of Canada: 31 & 32 Vict. c. 105.

And whereas an arrangement has been made for the surrender by the Hudson's Bay Company of Rupert's Land and for the admission thereof into the dominion of Canada:

And whereas part of the terms of the said arrangement were the payment of three hundred thousand pounds to the Hudson's Bay Company by the Government of Canada:

And whereas the Government of Canada propose to raise the said sum of three hundred thousand pounds by way of loan, and it is expedient to authorize the Commissioners of Her Majesty's Treasury in this Act referred to as the Treasury, to guarantee the interest of such loan:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The Canada (Rupert's Land) Loan "Act, 1869." Short title.

2. The Treasury may guarantee, in such manner and form as they think fit, the payment of the interest, at a rate not exceeding *four per cent.*, of the loan raised by the Government of Canada for the purpose of the said payment to the Hudson's Bay Company. Power of Treasury to guarantee loan.

A.D. 1869.

Conditions of guarantee.

3. The Treasury shall not give any guarantee under this Act unless and until provision is made by an Act of the Parliament of Canada or otherwise to the satisfaction of the Treasury—

(1.) For raising and appropriating the said loan:

(2.) For charging the consolidated revenue fund of Canada with the payment of the principal and interest of the said loan immediately after the charge of the loan for fortifications created by an Act of the Parliament of Canada of the year one thousand eight hundred and sixty-eight, chapter forty-one, or to be created by any subsequent Act in respect of sums paid out of the Consolidated Fund of the United Kingdom on a ccount of such last-mentioned loan:

(3.) For payment by the Government of Canada of a sinking fund at the rate of one per centum per annum on the entire amount of the said loan, and for charging the consolidated revenue fund of Canada with the payment of such sinking fund immediately after the principal and interest of the said loan:

(4.) For charging the consolidated revenue fund of Canada with any sum issued out of the Consolidated Fund of the United Kingdom under this Act, with interest thereon at the rate of five per centum per annum, immediately after the sinking fund of the said loan:

(5.) For payment of the money raised by the said loan to four trustees, nominated from time to time, two by the Treasury and two by the Government of Canada, and for the application of such money under the direction of those trustees:

(6.) For remitting to the Treasury the annual sums for the sinking fund by equal half-yearly payments, in such manner as they from time to time direct, and for the investment and accumulation thereof under their direction in the names of four trustees nominated from time to time, two by the Treasury and two by the Government of Canada.

Application of sinking fund.

4. The said sinking fund may be invested only in such securities as the Government of Canada and the Treasury from time to time agree upon, and shall be applied from time to time, under the direction of the Treasury, in discharging the principal of the said loan and the interest arising from such securities, and the resulting income thereof shall be invested and applied as part of such sinking fund.

A.D. 1869.

Alteration of Act relating to guaranteed loan.

5. Every Act passed by the Parliament of Canada which in any way impairs the priority of the charge upon the consolidated revenue fund of Canada created by that Parliament of the said loan and the interest and sinking fund thereof, and the sums paid out of the Consolidated Fund of the United Kingdom and the interest thereon, shall, so far only as it impairs such priority, be void, unless such Act has been reserved for the signification of Her Majesty's pleasure.

Issue out of Consolidated Fund.

6. The Treasury are hereby authorized to cause to be issued from time to time, out of the growing produce of the Consolidated Fund of the United Kingdom, such sums of money as may at any time be required to be paid to fulfil the guarantee under this Act.

Certificate of amount paid out of Consolidated Fund.

7. The Treasury may, from time to time, certify to one of Her Majesty's Principal Secretaries of State the amount which has been paid out of the Consolidated Fund of the United Kingdom to fulfil the guarantee under this Act, and the date of such payment; such certificate shall be communicated to the Governor of Canada, and shall be conclusive evidence of the amount having been so paid and of the time when the same was so paid.

Accounts to be laid before Parliament.

8. The Treasury shall cause to be prepared and laid before both Houses of Parliament a statement of any guarantee given under this Act, and an account of all sums issued out of the Consolidated Fund of the United Kingdom for the purposes of this Act, within one month after the same are so given or issued, if Parliament be then sitting, or if Parliament be not sitting, then within fourteen days after the then next meeting of Parliament.

Canada (Rupert's Land) Loan.

A

BILL

For authorizing a guarantee of a loan to be raised by Canada for a payment in respect of the transfer of Rupert's Land.

(*Prepared and brought in by Mr. Dodson and Mr. Stansfeld.*)

Ordered, by The House of Commons, *to be Printed,* 2 *August* 1869.

[Bill 253.]

Under 1 *oz.*

A

B I L L

TO

Abolish Capital Punishment.

A.D. 1869.

WHEREAS it is expedient to abolish the penalty of death:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Sects. 1, 2, and 3 of 24 & 25 Vict. c. 100. repealed.

1. The first, second, and third sections of chapter one hundred of the Statutes passed in the twenty-fourth and twenty-fifth years of Her present Majesty are hereby repealed.

Punishment for murder.

2. Whosoever after the passing of this Act shall be convicted of murder shall be sentenced by the court to be kept in penal servitude for life.

Punishment for high treason.

3. Whosoever shall be convicted of high treason shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than seven years.

Capital Punishment Abolition.

A

B I L L

To abolish Capital Punishment.

(*Prepared and brought in by Mr. Gilpin, Mr. Hadfield, Mr. M'Laren, and Sir John Gray.*)

Ordered, by The House of Commons, *to be Printed,* 12 *April* 1869.

[Bill 71.]

Under 1 *oz.*

Charity Commissioners Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title.
2. Extent of Act.
3. Construction of Act.
4. Amendment of 23 & 24 Vict. c. 136. s. 3.
5. Mode of application to Board.
6. Powers of Board on application.
7. Notice of order.
8. Discharge of order of Board for irregularity.
9. Employment of persons to prepare and defend scheme.
10. Appeals under 23 & 24 Vict. c. 136.
11. Service of Attorney General by appellant under 23 & 24 Vict. c. 136. s. 8.
12. Legal power of majority of trustees to deal with charity estates.
13. Legal procedings by trustees of charities for protection of charity property, &c.
14. Application by exempted charities to have benefit of Act.
15. Extension of part of Acts to registered places of religious worship.
16. Repeal.

SCHEDULE.

A

B I L L

INTITULED

An Act for amending the Charitable Trusts Acts. A.D. 1869.

WHEREAS doubts have arisen respecting the construction of some provisions of the Charitable Trusts Acts, and it is expedient to remove such doubts and otherwise to amend those Acts:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as "The Charitable Trusts Act, 1869." Short title.

2. This Act shall not extend to Scotland or Ireland. Extent of Act.

3. This Act, so far as is consistent with the tenor thereof, shall be construed as one with The Charitable Trusts Act, 1853, the Charitable Trusts Amendment Act, 1855, and The Charitable Trusts Act, 1860, and the Act of the Session of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter one hundred and twelve, "for establishing the jurisdiction of the Charity Commissioners in certain cases" (which may be cited as The Charitable Trusts Act, 1862), and those Acts, together with this Act, may be cited as The Charitable Trusts Acts, 1853 to 1869. Construction of Act. 16 & 17 Vict. c. 137. 18 & 19 Vict. c. 124. 23 & 24 Vict. c. 136. 25 & 26 Vict. c. 112.

4. A notice under section three of the Charitable Trusts Act, 1860, need not be sent by the Board of Charity Commissioners for England and Wales to any trustee or administrator of a charity who has been party or privy to the application to the board upon which they exercise their jurisdiction. Amendment of 23 & 24 Vict. c. 136. s. 3.

5. An application to the Board of Charity Commissioners for England and Wales, for the purposes of the Charitable Trusts Acts, 1853 to 1869, when made by the trustees or persons acting in the Mode of application to board. 23 & 24 Vict. c. 136. s. 4.

A.D. 1869.

administration of the charity, may be made in writing signed by any person authorized in that behalf by a resolution passed by a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question.

Powers of Board on application.

6. The Board shall be deemed to have and to have always had power in any order made upon an application to them, for the exercise of their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, to insert in the order any incidental provisions which they think expedient for carrying into effect the substantial objects of the application, and which they would have had power to insert if such provisions had been included in the application.

Notice of order. 23 & 24 Vict. c. 136. s. 6.

7. Nothing in the Charitable Trusts Acts, 1853 to 1869, shall be deemed to require or to have required the Board, upon modifying a proposed order in manner provided by section six of the Charitable Trusts Act, 1860, after the publication thereof, to give public notice of such modified order in the manner provided by that section with respect to the order originally proposed, unless they think further notice desirable.

Discharge of order of Board for irregularity.

8. The Board shall be deemed to have and to have always had power with or without any application to discharge the whole or any part of any order appearing to have been made by them by mistake or on misrepresentation, or otherwise than in conformity with the Charitable Trusts Acts, 1853 to 1869.

Every order made by the Board, in exercising their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, shall until discharged or varied by the Board or by the Court of Chancery on appeal under section eight of the Charitable Trusts Act, 1860, have effect according to its tenor.

Every order of the Board shall, subject to all powers which the Court of Chancery has to discharge or vary it, under section eight of the Charitable Trusts Act, 1860, and subject to the power of the Board to discharge it wholly or partially for the causes mentioned in this section, be deemed to have been duly and formally made, and no objection thereto on the ground only of irregularity or informality shall be entertained.

Employment of persons to prepare and defend scheme.

9. The Board, if they think it desirable, where the gross annual income of a charity is in their opinion sufficient to bear the expense, may, upon the application of the trustees or of any other person or persons entitled to apply to them in that behalf, employ or may authorize the trustees or persons acting in the administration of such charity to employ skilled and competent persons to prepare any scheme, order, statement, or other proceeding

for the purposes of the Charitable Trusts Acts, 1853 to 1869, with respect to such charity, or to make or assist in any survey or local inquiry with reference thereto, and may order the costs incurred under this section or upon any inquiry by an inspector, or in consequence of the employment of any person to appear on behalf of the respondent upon any appeal against any scheme or order, to be provided in the same manner as if they were costs of a transaction mentioned in section thirty-six of the Charitable Trusts Act, 1855.

Appeals under 23 & 24 Vict. c. 136.

10. A petition to the Court of Chancery under section eight of the Charitable Trusts Act, 1860, may be presented in the case of all charities by the same persons only as in the case of a charity the gross annual income of which does not exceed fifty pounds.

Service of Attorney General by appellant under 23 & 24 Vict. c. 136. s. 8.

11. A petition shall not be presented to the Court of Chancery by any person under section eight of the Charitable Trusts Act, 1860, before the expiration of twenty-one days after written notice under the hand of the appellant of his intention to present such petition has been served on the Attorney General by delivering the same to the solicitor who acts for him in ex officio proceedings relating to charities.

Legal power of majority of trustees to deal with charity estates. 23 & 24 Vict. c. 136. s. 16.

12. Where the trustees or persons acting in the administration of any charity have power to determine on any sale, exchange, partition, mortgage, lease, or other disposition of any property of the charity, a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question shall have and be deemed to have always had full power to execute and do all such assurances, acts, and things as may be requisite for carrying any such sale, exchange, partition, mortgage, lease, or disposition into effect, and all such assurances, acts, and things shall have the same effect as if they were respectively executed and done by all such trustees or persons for the time being and by the official trustee of charity lands.

Legal proceedings by trustees of charities for protection of charity property, &c.

13. The majority of the trustees of any charity, if authorized by the Board, may institute and maintain any action, suit, petition, or other proceeding in the same manner in all respects as if they were the sole trustees of the charity.

Where the trustees, or the majority of the trustees, of any charity, institute and maintain any action, suit, petition, or other proceeding under the authority of the Board, such action, suit, petition, or other proceeding shall not abate or become discontinued or of no effect by reason of the death or removal from office of any of the trustees, or of the addition of any new trustee, but shall continue and have

A.D. 1869.

effect for and against the trustees for the time being of the charity, in the same manner as if they were actually named therein.

Application by exempted charities to have benefit of Act. See 16 & 17 Vict. c. 137. s. 3.

14. Either the trustees or the persons acting in the administration of any charity exempted from the operation of the Charitable Trusts Acts, 1853 to 1869, may apply to the Board to have the said Acts, or any provisions thereof specified in the application extended to such charity: Such application shall be made by such of the said trustees or persons as having regard to the value of the charity might under the provisions of the said Acts, if the charity were not exempted therefrom, make an application for a scheme to any judge or court or to the Board, and shall be made in the same manner and according to the same regulations as such application.

On any such application the Board may make an order directing that the said Acts or any provisions of them specified in the order shall extend, and such Acts or provisions shall thereupon after the date of the order extend to such charity in the same manner as if it were not exempted therefrom.

Before making any order under this section the Board shall cause such notices of the proposed order to be given as by section three of the Charitable Trusts Act, 1860, as amended by this Act, and by section six of the same Act are required to be given before the making of an order for establishing a scheme.

Extension of part of Acts to registered places of religious worship.

15. So much of the Charitable Trusts Acts, 1853 to 1869, as authorizes and relates to orders of the Board (on the application of the trustees or administrators of a charity) for the appointment or removal of trustees of a charity, or for or relating to the vesting of any real or personal estate belonging thereto, or for the establishment of any scheme for the administration of any charity, shall extend to buildings registered as places of meeting for religious worship with the Registrar General of births, deaths, or marriages in England, and bonâ fide used as places of meeting for religious worship. Save as provided by this section, such buildings shall continue exempted from the Charitable Trusts Acts, 1853 to 1869, except so far as any provisions of those Acts may be extended to them by an order of the Board.

Repeal.

16. The enactments described in the schedule to this Act are hereby repealed; provided that,

(1.) This repeal shall not affect anything already done or suffered, or any right acquired or order made, under such enactments:

(2.) Any proceedings already commenced under the enactments hereby repealed shall be proceeded with in the same manner as if this repeal had not been made.

SCHEDULE.

Date.	Title.	
16 & 17 Vict. c. 137.	An Act for the better administration of Charitable Trusts -	In part; namely, section sixty-three.
23 & 24 Vict. c. 136.	An Act to amend the law relating to the administration of Endowed Charities - - -	In part; namely, section sixteen.

Charity Commissioners.

[H.L.]

A

BILL

INTITULED

An Act for amending the Charitable Trusts Acts.

(*Brought from the Lords* 23 *July* 1869.)

Ordered, by The House of Commons, *to be Printed,* 26 *July* 1869.

[Bill 239.]

Under 1 *oz.*

A

B I L L

TO

Amend the Cinque Ports Act.

A.D. 1869.

WHEREAS by the Act of the session of the eighteenth and nineteenth years of Her Majesty's reign (chapter forty-eight) "for the better administration of justice in the Cinque Ports" (in this Act called the Cinque Ports Act) provision is made (sections five to eight) for the severance from the town and port of Dover of any district forming part of the members or liberties of that town and port, on the grant of a charter of incorporation to such district; which enactments are amended by the Act of the session of the twentieth and twenty-first years of Her Majesty's reign (chapter one) so that such severance takes effect not immediately on the grant of a charter of incorporation but only on the grant of a court of quarter sessions for the district comprised in any such charter; and it is expedient that the enactments aforesaid be further amended:

18 & 19 Vict. c. 48.

20 & 21 Vict. c. 1.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Amendment of sections six, seven, and eight of Cinque Ports Act.

1. On section five of the Cinque Ports Act coming into force with respect to any district comprised in a charter of incorporation, sections six, seven, and eight of that Act shall in relation to that district have effect as if the grant of a court of quarter sessions had been therein referred to instead of the grant of a charter of incorporation.

Ascertainment and discharge of liabilities of Margate.

2. On a grant of a court of quarter sessions for the borough of Margate, the Commissioners of Her Majesty's Treasury shall (notwithstanding anything in the Cinque Ports Act) ascertain and determine the capital amount that ought to be paid by the borough of Margate in discharge of the liability of the borough continued or created by the Cinque Ports Act, as amended by this Act, and what other expenses (if any) the borough of Margate will

A.D. 1869.

become liable on the severance thereof from Dover to pay to the borough of Dover, and the amount thereof, unless the councils of those boroughs agree on the matters so to be ascertained and determined (which they are hereby empowered to do); and the council of the borough of Margate shall, within such time as the councils agree or (in default of their agreement) the Commissioners of Her Majesty's Treasury direct, pay out of the borough fund of that borough the amounts so agreed or ascertained and determined; and on payment thereof that borough shall be by virtue of this Act absolutely discharged from all such liability; and the council of that borough may, with the approval of the Commissioners of Her Majesty's Treasury, (subject and according to the provisions of The Municipal Corporations Mortgages, &c., Act, 1860,) raise any money requisite in that behalf by borrowing the same at interest on the security of the borough fund.

23 & 24 Vict. c. 16.

Recovery of rates due to Dover.

3. All rates which on a grant of a court of quarter sessions for the borough of Margate are due and payable by the churchwardens and overseers of the poor of the parish of St. John the Baptist, in the Isle of Thanet, to the treasurer of the town and port of Dover shall be paid to the deputy or high constable of the liberty wherein that parish is situate, and shall be recoverable as if this Act had not been passed.

Continuance of liability of non-corporate portion of parish.

4. That portion of the parish of Saint John the Baptist, in the Isle of Thanet, which is not comprised within the borough of Margate, shall (notwithstanding the grant of a court of quarter sessions to that borough or this Act) remain and be subject to the provisions of section ten of the Act of the session of the sixth and seventh years of the reign of King William the Fourth (chapter one hundred and five) "for the better administration of justice in certain boroughs," and to such proportionate liability as it would have been subject to under section six of the Cinque Ports Act if that portion of the parish had been originally a separate parish, and had been specified as such in that section, and that section had in terms extended to the debt for the time being charged on the rates in the nature of county rates therein mentioned; which liability shall be satisfied and enforced in manner in that section prescribed, with the substitution only of the police rates for the rates made for the relief of the poor.

6 & 7 W. 4. c. 105. s. 10.

Costs of Act.

5. The costs of the councils of the borough of Margate and town and port of Dover incurred in relation to the obtaining and execution of this Act shall be paid out of the borough fund of the borough of Margate.

Short title.

6. This Act may be cited as The Cinque Ports Act, 1869.

Cinque Ports Act Amendment.

A

B I L L

To amend the Cinque Ports Act.

(*Prepared and brought in by Mr. Knatchbull-Hugessen and Mr. Secretary Bruce.*)

Ordered, by The House of Commons, *to be Printed*, 9 *July* 1869.

[Bill 206.]

Under 1 *oz.*

A

B I L L

TO

Alter and amend the Acts enabling Her Majesty to grant Pensions to persons having held certain high civil offices. A.D. 1869.

WHEREAS it is expedient to amend the law relating to pensions to be granted to persons who have held offices in the civil service of the state which are usually held by members of the House of Lords or the House of Commons, and which offices are herein-after referred to as political offices: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Application of Act.

1. This Act, with the exception of the reservation herein-after contained, shall not apply to any office in the permanent civil service of the state or in Her Majesty's household, or to any legal office.

Classification of political offices.

2. Political offices shall for the purposes of this Act be divided into three classes; viz.:—

Class 1. Containing the office of the First Lord of the Admiralty and all other political offices remunerated with a yearly salary of not less than *five thousand pounds*:

Class 2. Containing all such offices remunerated with a yearly salary of less than *five thousand pounds* and not less than *two thousand pounds*:

Class 3. Containing all such offices remunerated with a yearly salary of less than *two thousand pounds* and more than *one thousand pounds*.

Limit of amount of pensions.

3. Subject to the provisions of this Act Her Majesty may, if She shall think fit, by warrant under her royal sign manual, countersigned by *two* or more Commissioners of Her Majesty's Treasury, grant to any person in respect of his services, whether before or after the passing of this Act, in any office included in any of the above classes, a pension during life according to the following scale, viz.:—

A.D. 1869.

1st. A first-class pension, not exceeding *two thousand pounds* a year, in respect of a service of not less than *four years*, or its equivalent, in an office of the first class.

2d. A second-class pension, not exceeding *one thousand two hundred pounds* a year, in respect of a service of not less than *five years*, or its equivalent, in an office of the second class.

3d. A third-class pension, not exceeding *eight hundred pounds* a year, in respect of a service of not less than *five years* in an office of the third class.

Mode of calculating time of service.

4. For the purposes of this Act, *two years* service in an office of the third class shall count as one year's service in an office of the second class; and *two years* service in an office of the second class shall count as one year's service in an office of the first class; but no person shall be entitled to a first-class pension who has not actually served *two years* in an office of the first class, nor to a second-class pension who has not actually served *three years* in an office of the second class.

The time of service in political offices may for the purposes of this Act be continuous or at different times and in different offices of the above classes; but no pension under this Act shall be granted in any class while *four* pensions of that class are subsisting.

Pensions payable out of Indian revenue.

5. Pensions in respect of service in offices the salary of which is paid out of the revenues of India, shall be paid out of those revenues.

Pensioner not to hold pension under another Act.

6. A person receiving a pension under this Act shall not be entitled to or hold any pension or superannuation allowance granted under any other Act, or any compensation or allowance in respect of any office abolished or regulated under any public Act of Parliament.

Incorporation of part of 57 G. 3. c. 65. and 4 & 5 W. 4. c. 24.

7. So much of the Act of the fifty-seventh year of the reign of King George the Third, chapter sixty-five, as is unrepealed by this Act, and section six of the Act of the session of the fourth and fifth years of the reign of King William the Fourth, chapter twenty-four, shall apply to pensions under this Act in the same manner as if they had been granted under the provisions of the said Acts.

Repeal of Acts.

8. The Acts specified in the schedule to this Act are hereby repealed to the extent in the schedule mentioned:

A.D. 1869.

Provided that—

(1.) This repeal shall not affect any pensions which have been granted under any of the said Acts before the passing of this Act and are still in force, and those Acts shall apply to such pensions as if this Act had not passed.

(2.) Where a person is qualified by service before the passing of this Act to receive a pension under any of the said Acts, it shall be lawful for Her Majesty to grant a pension to such person in pursuance of those Acts; and those Acts shall apply, in the case of such pension, in the same manner as if this Act had not passed.

(3.) Where a person who is in the permanent civil service of the state is qualified by service before the passing of this Act to receive a pension under any of the said Acts, or would but for this repeal have become so qualified by service partly before and partly after the passing of this Act, then either—

(*a*) Such person may claim a superannuation allowance under the Superannuation Act, 1859: 22 Vict. c. 26.

Or,

(*b*) Such person may claim, and Her Majesty may grant to him, a pension under the provisions of the said Acts; and those Acts shall apply, in the case of such pension, in the same manner as if this Act had not passed.

9. This Act may be cited as "The Political Offices Pension Act, 1869." Short title.

SCHEDULE.

ACTS REPEALED.

Date of Act.	Title of Act.	Extent of Repeal.
57 Geo. 3. c. 65. -	An Act to enable His Majesty to recompense the services of persons holding or who have held certain high and efficient civil offices.	Sections one to seven (both inclusive) and sections nine and ten.
6 Geo. 4. c. 90. -	An Act to amend an Act of the fifty-seventh year of His late Majesty, for enabling His Majesty to recompense the services of persons holding or who have held certain high and efficient civil offices	The whole Act.
4 & 5 Will. 4. c. 24.	An Act to alter, amend, and consolidate the laws for regulating the pensions, compensations, and allowances to be made to persons in respect of their having held civil offices in His Majesty's service.	Sections one, two, three, four, five, and seven.

Civil Offices (Pensions).

A

BILL

To alter and amend the Acts enabling Her Majesty to grant Pensions to persons having held certain high civil offices.

(Prepared and brought in by Mr. Dodson, Mr. Gladstone, and Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, *to be Printed,* 9 *March* 1869.

[Bill 42.]

Under 1 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Alter and amend the Acts enabling Her Majesty to grant Pensions to persons having held certain high civil offices.

WHEREAS it is expedient to amend the law relating to pensions to be granted to persons who have held offices in the civil service of the Crown which are usually held by members of the House of Lords or the House of Commons, and which offices are herein-after referred to as political offices: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: A.D. 1869.

Application of Act.

1. This Act, with the exception of the reservation herein-after contained, shall not apply to any office in the permanent civil service of the Crown or in Her Majesty's household, or to any legal office.

Classification of political offices.

2. Political offices shall for the purposes of this Act be divided into three classes; viz.:—

Class 1. Containing the office of the First Lord of the Admiralty and all other political offices remunerated with a yearly salary of not less than five thousand pounds:

Class 2. Containing all such offices remunerated with a yearly salary of less than five thousand pounds and not less than two thousand pounds:

Class 3. Containing all such offices remunerated with a yearly salary of less than two thousand pounds and more than one thousand pounds.

Limit of amount of pensions.

3. Subject to the provisions of this Act Her Majesty may, if She shall think fit, by warrant under her royal sign manual, countersigned by two or more Commissioners of Her Majesty's Treasury, grant to any person in respect of his services, whether before or

A.D. 1869.

after the passing of this Act, in any office included in any of the above classes, a pension during life according to the following scale, viz. :—

1st. A first-class pension, not exceeding two thousand pounds a year, in respect of a service of not less than four years, or its equivalent, in an office of the first class.

2d. A second-class pension, not exceeding one thousand two hundred pounds a year, in respect of a service of not less than five years, or its equivalent, in an office of the second class.

3d. A third-class pension, not exceeding eight hundred pounds a year, in respect of a service of not less than five years in an office of the third class.

Mode of calculating time of service.

4. For the purposes of this Act, service for any time in an office of the third class shall count as service for one half of that time in an office of the second class; and service for any time in an office of the second class shall count as service for one half of that time in an office of the first class; but no person shall be entitled to a first-class pension who has not actually served two years in an office of the first class, nor to a second-class pension who has not actually served three years in an office of the second class. Any person who, having served for three years in a lower class, has afterwards served in a higher class for such time as would, if the service had been in the lower class, have entitled him to a pension in the lower class, shall be entitled to reckon the whole of his service as if it had been passed in the lower class.

The time of service in political offices may for the purposes of this Act be continuous or at different times and in different offices of the above classes; but no pension under this Act shall be granted in any class while four pensions of that class are subsisting; nor shall more than one pension under this Act be granted in the same year: Provided that no office hereafter created shall be entitled to rank as one of the political offices within the meaning of this Act, unless such office shall have been created by Act of Parliament, nor shall in future any addition to the salary of any political office now existing, or hereafter to be created, made otherwise than under the authority of an Act of Parliament, entitle such office to rank in any higher class than that in which it would have ranked without such addition.

Pensions payable out of Indian revenue.

5. Pensions in respect of service in offices the salary of which is paid out of the revenues of India shall be paid out of those revenues.

A.D. 1869.

Pensioner not to hold pension under another Act.

6. A person receiving a pension under this Act shall not be entitled to or hold any pension or superannuation allowance granted under any other Act, or any compensation or allowance in respect of any office abolished or regulated under any public Act of Parliament.

Incorporation of part of 57 G. 3. c. 65. and 4 & 5 W. 4. c. 24.

7. So much of the Act of the fifty-seventh year of the reign of King George the Third, chapter sixty-five, as is unrepealed by this Act, and section six of the Act of the session of the fourth and fifth years of the reign of King William the Fourth, chapter twenty-four, shall apply to pensions under this Act in the same manner as if they had been granted under the provisions of the said Acts.

Repeal of Acts.

8. The Acts specified in the schedule to this Act are hereby repealed to the extent in the schedule mentioned:

Provided that—

(1.) This repeal shall not affect any pensions which have been granted under any of the said Acts before the passing of this Act and are still in force, and those Acts shall apply to such pensions as if this Act had not passed.

(2.) Where a person is qualified by service before the passing of this Act to receive a pension under any of the said Acts, it shall be lawful for Her Majesty to grant a pension to such person in pursuance of those Acts; and those Acts shall apply, in the case of such pension, in the same manner as if this Act had not passed.

(3.) Where a person who is in the permanent civil service of the state is qualified by service before the passing of this Act to receive a pension under any of the said Acts, or would but for this repeal have become so qualified by service partly before and partly after the passing of this Act, then either—

(*a*) Such person may claim a superannuation allowance under the Superannuation Act, 1859: 22 Vict. c. 26.

Or,

(*b*) Such person may claim, and Her Majesty may grant to him, a pension under the provisions of the said Acts; and those Acts shall apply, in the case of such pension, in the same manner as if this Act had not passed.

Short title.

9. This Act may be cited as "The Political Offices Pension Act, 1869."

A.D. 1869.

SCHEDULE.

ACTS REPEALED.

Date of Act.	Title of Act.	Extent of Repeal.
57 Geo. 3. c. 65. -	An Act to enable His Majesty to recompense the services of persons holding or who have held certain high and efficient civil offices.	Sections one to seven (both inclusive) and sections nine and ten.
6 Geo. 4. c. 90. -	An Act to amend an Act of the fifty-seventh year of His late Majesty, for enabling His Majesty to recompense the services of persons holding or who have held certain high and efficient civil offices	The whole Act.
4 & 5 Will. 4. c. 24.	An Act to alter, amend, and consolidate the laws for regulating the pensions, compensations, and allowances to be made to persons in respect of their having held civil offices in His Majesty's service.	Sections one, two, three, four, five, and seven.

Civil Offices (Pensions).

A

BILL

[AS AMENDED IN COMMITTEE]

To alter and amend the Acts enabling Her Majesty to grant Pensions to persons having held certain high civil offices.

(Prepared and brought in by Mr. Dodson, Mr. Gladstone, and Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, *to be Printed,* 27 *May* 1869.

[Bill 133.]

Under 1 *oz.*

A

B I L L

TO

Remove doubts as to the qualification of persons holding Civil Service Pensions, or receiving Superannuation Allowances, to sit in Parliament. A.D. 1869.

WHEREAS the Acts of the fourth and fifth years of King William the Fourth, chapter twenty-four, and of the twenty-second year of Her Majesty, chapter twenty-six, regulate the conditions on which pensions, compensations, and allowances shall be made to persons in respect of their having held civil offices in Her Majesty's service: And whereas doubts have arisen as to whether such pensions, compensations, or allowances, being those of reward and recompence for civil services authorized by Parliament, come within the provisions of the Act of the sixth year of Queen Anne, chapter seven, which renders any persons holding a pension from the Crown during pleasure incapable of being elected or of sitting and voting as a member of the House of Commons: 4 & 5 W. 4. c. 24. 22 Vict. c. 26. 6 Anne, c. 7.

Be it therefore enacted; and it is hereby enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. That pensions, compensations, or allowances granted for civil services according to the provisions of the aforesaid Acts of the fourth and fifth years of King William the Fourth and the twenty-second year of Her Majesty, or any other Act or Acts whatever, shall not disqualify the holder from being elected or sitting or voting as a member of the House of Commons. Pensions granted under recited Acts not to disqualify holders from sitting in Parliament.

2. Nothing contained in this Act shall affect any of the provisions of the aforesaid Acts of the fourth and fifth years of King William the Fourth, and twenty-second Victoria, chapter twenty-six, or of the Act of the twentieth and twenty-first years of Her Majesty, chapter thirty-seven. Nothing herein contained to affect provisions of first-recited Acts.

Civil Service Pensions.

A

B I L L

To remove doubts as to the qualification of persons holding Civil Service Pensions, or receiving Superannuation Allowances, to sit in Parliament.

(Prepared and brought in by Mr. Locke King and Mr. Russell Gurney.)

Ordered, by The House of Commons, *to be Printed*, 11 *March* 1869.

[Bill 46.]

Under 1 *oz.*

A

B I L L

TO

Amend the Law relating to the office of Clerk of Assize and offices united thereto, and to certain Fees upon Orders for payment of witnesses in criminal proceedings. A.D. 1869.

WHEREAS it is expedient to amend the law relating to the office of clerk of assize and offices united thereto, and to remove doubts which have arisen respecting the taking of certain fees in pursuance of section five of the Act of the session of the thirtieth and thirty-first years of the reign of Her present Majesty, chapter thirty-five, "to remove some defects in the administration of the "criminal law:"

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as The Clerks of Assize, &c. Act, 1869. Short title.

2. This Act shall not extend to Scotland or Ireland. Extent of Act.

PART I.

Office of Clerk of Assize.

3. After the passing of this Act a person shall not be appointed to be clerk of assize unless he has during a period of not less than three years been either Qualification for clerk of assize.

(1.) A barrister-at-law in actual practice, or

(2.) A special pleader or conveyancer in actual practice, or

(3.) An attorney of one of the superior courts of law at Westminster in actual practice, or

(4.) A subordinate officer of a clerk of assize on circuit;

A.D. 1869.

and the appointment of any person to be clerk of assize who is not qualified as provided by this section shall be void, and another duly qualified person may be appointed in his place as if he were naturally dead.

Revision of salary of clerk of assize.

4. Whenever any vacancy takes place in the office of clerk of assize the Commissioners of Her Majesty's Treasury may revise the salary attached to such office and fix another salary in lieu of the former salary, having regard to the nature of the duties and responsibility of such office.

Taking of fees by clerks of assize.

5. A clerk of assize who is paid by salary shall not take any fee for his own use; and if he is authorized by any Act passed or hereafter to be passed to take any fee for any duty performed by him, he shall take (by stamps or otherwise) and account for and pay over such fee in such manner as may be directed by the Commissioners of Her Majesty's Treasury.

Persons hereafter appointed not to be entitled to compensation.

6. Every person who is appointed after the *passing of this Act* to be clerk of assize shall hold his office subject to such provisions and regulations as may thereafter be enacted by Parliament respecting the same, and shall not be entitled to any compensation in respect of the emoluments of his office in case any alteration is made in the duties thereof, or the same is abolished by authority of Parliament.

Definition of clerk of assize.

7. In this Act the term "clerk of assize" includes clerk of the Crown and associate on circuit, and any other office the duties of which are at the passing of this Act or may hereafter be performed by the clerk of assize.

PART II.

Fees on Orders under 30 & 31 Vict. c. 35. s. 5.

Construction of part of Act.

8. This part of this Act shall be construed as one with the recited Act of the thirtieth and thirty-first years of the reign of Her present Majesty, chapter thirty-five, which may be cited as The Criminal Law Amendment Act, 1867.

Amendment of 30 & 31 Vict. c. 35. s. 5., as to fees.

9. Where the officer of the court who in pursuance of section five of The Criminal Law Amendment Act, 1867, makes out an order for the payment of expenses and compensation to witnesses is paid by salary, or is for the time being allowed under the table of fees relating to his office to take one fee only of fixed amount in respect

of his several duties relating to the prosecution of an offender, such officer shall make out and deliver such order without taking any fee for the same, and the said section shall be construed as if all mention of the sum or fee of sixpence were omitted therefrom.

Fees under 30 & 31 Vict. c. 35. s. 5. to be included in the account of the clerk of the peace.

10. Where the fee of sixpence is, in pursuance of section five of The Criminal Law Amendment Act, 1867, as amended by this Act, taken by a clerk of the peace or other officer, the amount of such fees received by him during any year after the passing of this Act shall be included in the total amount of fees in criminal prosecutions received by him, which is to be ascertained under section eighteen of the Act of the session of the eighteenth and nineteenth years of the reign of Her present Majesty, chapter one hundred and twenty-six, "for diminishing expense and delay in "the administration of criminal justice in certain cases," and shall be included in every return or account of fees made or rendered by such clerk of the peace or other officer.

Clerks of Assize.

A

BILL

To amend the Law relating to the office of Clerk of Assize and offices united thereto, and to certain Fees upon Orders for payment of witnesses in criminal proceedings.

(*Prepared and brought in by Mr. Ayrton and Mr. Chancellor of the Exchequer.*

Ordered, by The House of Commons, *to be Printed*, 8 *July* 1869.

[Bill 203.]

Under 1 *oz.*

Colonial Prisoners Removal Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Clauses.

1. Title of Act.
2. Definition of terms.
3. Repeal of 6 Geo. 4. c. 69. s. 4.
4. Prisoners may be removed from one colony to another for purposes of punishment.
5. Removal of prisoners to be by warrant.
6. Prisoner in legal custody during removal.
7. Liability of prisoner in colony to which he is removed.
8. Removals heretofore made to be valid for all purposes.

A

B I L L

INTITULED

An Act for authorizing the Removal of Prisoners from one Colony to another for the purposes of punishment. A.D. 1869.

WHEREAS it is expedient to amend the law relating to the removal of prisoners from one colony to another for the purposes of punishment: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as "The Colonial Prisoners Removal Act, 1869." Title of Act.

2. For the purposes of this Act— Definition of terms:

The term "colony" shall not include any place within the United Kingdom, the Isle of Man, or the Channel Islands, or within such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of India, but shall include any plantation, territory, or settlement situate elsewhere within Her Majesty's dominions, and subject to the same local government; and for the purposes of this Act, all plantations, territories, and settlements under a central legislature shall be deemed to be one colony under the same local government: "Colony:"

The term "governor" shall include the officer for the time being administering the government of any colony: "Governor:"

The term "legislative body" shall mean any house of assembly or other body of persons having legislative powers in the colony; and where such body of persons consists of two separate houses, it shall include both houses, and where there are local legislative bodies as well as a central legislative body, shall mean the central legislative body only. "Legislative body."

3. The fourth section of the Act passed in the sixth year of the reign of His late Majesty King George the Fourth, intituled "An Act for punishing offences committed by transports kept to labour Repeal of 6. G. 4. c. 69. s. 4.

A.D. 1869.

" in the colonies, and better regulating the powers of justices of the " peace in New South Wales," is hereby repealed, except so far as may be necessary for supporting or continuing any proceedings taken thereunder.

Prisoners may be removed from one colony to another for purposes of punishment.

4. Any two colonies may, with the sanction of an order of Her Majesty in Council, agree for the removal of any prisoners under sentence or order of transportation, imprisonment, or penal servitude from one of such colonies to the other, for the purpose of their undergoing in such other colony the whole or any part of their punishment, and for the return of such prisoners to the former colony at the expiration of their punishment, or at such other period as may be agreed upon, upon such terms and subject to such conditions as may seem good to the said colonies.

The sanction of the order of Her Majesty in Council may be obtained, in the case of a colony having a legislative body on an address of such body to Her Majesty, and in the case of any colony not having a legislative body, on an address of the governor of such colony; and such sanction shall be in force as soon as such order in council has been published in the colony to which it relates.

The agreement of any one colony with another shall for the purposes of this Act be testified by a writing under the hand of the governor of such colony.

Removal of prisoners to be by warrant.

5. Where the sanction of Her Majesty has been given to any such agreement as aforesaid relating to the removal of prisoners from one colony to another for the purpose of undergoing their punishment, any prisoners under sentence or order of transportation, imprisonment, or penal servitude may be removed from such one colony to the other under the authority of a warrant signed by the governor, and addressed to the master of any ship, or any other person or persons; and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to such other colony, and to deliver him when there into the custody of any authority designated in such warrant, or empowered by the governor of such last-mentioned colony to receive such prisoner.

Prisoner in legal custody during removal.

6. Every prisoner shall, from the time of his leaving his prison in one colony to the time of his reaching his prison in the other colony, be deemed to be in the legal custody of the person or persons empowered to remove him, and to be subject to the same restraint, and, in the event of misbehaviour, to the same punishment, as if he had continued in prison, and as if the person or persons empowered to remove him were the gaoler or gaolers of such prison;

and if he escape or attempt to escape from such custody, such prisoner, and every person aiding or attempting to aid him in such escape, shall be subject to the same punishment as if such escape or attempt to escape were an escape or attempt to escape from prison.

A prison shall mean any place of confinement or any place where the prisoners undergo punishment.

Any person punishable under this section may be tried and punished either in the colony from which the prisoner is being removed, or in the colony to which he is being removed; and the law applicable to such person shall be the law of the colony in which he is tried.

Liability of prisoner in colony to which he is removed.

7. Every prisoner shall, upon his delivery to the person having lawful authority to receive him in the colony to which he is removed, be subject within such colony to the same laws and regulations, and shall be dealt with in all respects in the same manner, as if he had been tried and received the same sentence in such colony as the sentence which has been passed on him in the colony from which he is removed.

And whereas from time to time divers prisoners have been removed from one of Her Majesty's colonies to another, and doubts have been entertained whether such removals were legal, and how far such prisoners could be legally dealt with in the colonies to which they have been removed, and it is expedient that such doubts should be removed: Be it enacted as follows:

Removals heretofore made to be valid for all purposes.

8. The removal of any prisoner heretofore made from one colony to another by or under the authority of the governor of either of such colonies, and any act done in relation to such removal by or under such authority, and the detention, custody, and treatment in either colony of the prisoner so removed, shall be deemed to have been as lawful and effectual for all purposes whatsoever as if this Act had been passed at the time of such removal, and had been in force in respect of both the colonies referred to in this section, and such removal had been duly made in pursuance of this Act.

Colonial Prisoners Removal. [H.L.]

A

B I L L

INTITULED

An Act for authorizing the Removal of Prisoners from one Colony to another for the purposes of punishment.

(*Brought from the Lords 22 April* 1869.)

Ordered, by The House of Commons, *to be printed,* 22 *April* 1869.

[Bill 92.]

Under 1 *oz.*

Common Law Courts (Ireland) Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Clause.

1. Commencement of Act.
2. Appointment of Master and Clerk of the Rules.
3. Appointment of the Clerk of the Writs and junior clerk in the Writ, Appearance, and Seal Office.

Writs for commencement of actions.

4. Personal actions, when defendant resides within the jurisdiction, to be commenced by writ of summons in form No. 1. of schedule (A.)
5. Writs for commencement of actions to be issued in rotation for the several courts. No objection on ground of privilege to be valid.
6. No form or cause of action to be mentioned in writ.
7. Writ to state names of all defendants, and for only one action.
8. Writ to be dated on day of issuing, and tested in name of superior courts of law.
9. Writ to be endorsed with name and abode of attorney, or a memorandum that writ has been sued by plaintiff in person.
10. Attorney on demand to declare whether writ issued by his authority, and to declare name and abode of his client, if ordered. If writ issued without authority of attorney, proceedings to be stayed.
11. Endorsement of debt and costs on writ and copy of writ for a debt, with notice that proceedings will be stayed on payment within four days.
12. Concurrent writs may be issued.
13. Renewal of writs of summons to save the statute of limitation, and for other purposes.
14. Production of renewed writ, evidence of commencement of action.
15. Writ may be served in any county.
16. Endorsement of service to be made.
17. As to service of writ on corporations and inhabitants of baronies and towns.
18. Proceedings where personal service cannot be effected, but defendant knows of the writ and evades service.

Clause.
19. As to actions against British subjects residing out of the jurisdiction of superior courts.
20. As to actions against foreigners residing out of the jurisdiction of superior courts.
21. Courts may direct substitution of service.
22. Omission to insert or endorse matters in or on writ not to nullify it.
23. Substitution by mistake or inadvertence of one form of writ for another may be amended without costs.
24. Writs for service within and without jurisdiction may be concurrent.
25. Special endorsement of the particulars of debts or liquidated demands may be made on the writ. Special endorsement to stand for particulars of demand.

Appearance and proceedings in default of appearance.

26. Final judgment upon writs specially endorsed in default of appearance.
27. Judgment for nonappearance where the writ is not endorsed in special form.
28. Appearance to be entered at any time before judgment.
29. Appearance by the defendant in person to give an address at which proceedings may be served.
30. Mode of appearance to writ of summons.
31. Proceedings mentioned in writ or notice may be had and taken.
32. Proceedings where only some of the defendants appear to a writ specially endorsed.

Joinder of parties.

33. Joinder as plaintiffs of all persons supposed to be legally entitled.
34. Defendant to have benefit of set-off, though some plaintiffs improperly joined.
35. No other action for same claim to be brought.
36. Nonjoinder and misjoinder of plaintiffs may be amended before trial.
37. Nonjoinder and misjoinder of plaintiffs may be amended at the trial as in cases of amendments of variances under 3 & 4 Vict. c. 105. s. 48.

Clause.
38. Upon notice of plea of nonjoinder of plaintiffs, proceedings may be amended.
39. Misjoinder of defendants may be amended before or at trial.
40. Proceeding when nonjoinder of defendant objected to.
41. Upon plea in abatement for nonjoinder of defendants, proceedings may be amended.
42. Provision in the case of subsequent proceedings against the persons named in a plea in abatement for nonjoinder of defendants.
43. Joinder of claims by husband and wife, with claims in right of husband.

Joinder of causes of action.

44. Different causes of action may be joined, but separate trials may be ordered.

Questions by consent without pleading.

45. Questions of fact may, after writ issued by consent and leave of a judge, be raised without pleadings.
46. Agreement may be entered into for the payment of money and costs according to the result of the issue.
47. Judgment to be entered according to the agreement, and execution issued forthwith, unless stayed.
48. Proceedings upon issue may be recorded.
49. Judges may, by consent, try questions of fact.
50. Questions of law may be raised after writ issued by consent, &c., without pleading.
51. Agreement as to payment of money and costs according to judgment upon special case.
52. Costs to follow the event, unless otherwise agreed.

Pleadings in general.

53. Fictitious and needless averments not to be made.
54. Judgment upon demurrer to be given according to the very right of the cause.
55. Objections by way of special demurrer.
56. Pleadings framed to embarrass may be struck out or amended.
57. Four days notice to declare, reply, or rejoin.

Clause.
58. Pleadings to be dated and entered as of time of pleading, unless order to the contrary.
59. Profert and oyer not necessary.
60. Document may be set forth, and be considered a part of the pleading in which it is set forth.
61. Declaration for libel or slander.
62. Performance of conditions precedent may be averred generally.
63. The process of adjudication of an inferior jurisdiction may be pleaded generally.

Declaration.

64. Plaintiff to declare within a year.
65. Actions against justices of the peace, mayors, &c., to be laid in the county in which the cause of action has arisen.
66. Court or judge may direct such actions to be tried elsewhere.
67. Court or judge may, in transitory actions, order venue to be changed.
68. Forms of commencement, &c. of declaration.
69. Several counts on the same cause of action not to be allowed.
70. Commencement of declaration after plea of nonjoinder.
71. Further particulars.

Pleadings.

72. Rules to plead, and demand of plea, not necessary.
73. Time for pleading, where defendant is within jurisdiction, to be eight days.
74. Express colour or special traverses not necessary.
75. Formal commencement and prayer of judgment unnecessary.
76. Commencement of plea.
77. Character of assignees of bankrupt, &c. to be taken as admitted, if not denied.
78. Effect of plea of non assumpsit in actions on simple contract.
79. Pleas of non assumpsit and never indebted not to be allowed in actions on bills of exchange and promissory notes.
80. Effect of plea of non est factum.
81. Plea of nil debet not to be allowed.
82. Defences by way of confession and avoidance to be specially pleaded in actions upon contract.
83. Payment not to be given in evidence in reduction of amount without plea.

Clause.

84. Effect of plea of non detinet.
85. Effects of plea of not guilty in actions of wrong.
86. General issue may be pleaded in certain actions.
87. In actions of wrong, defences in confession and avoidance to be specially pleaded.
88. Effect of plea of not guilty in actions of trespass.
89. Effect of plea of not guilty in action for taking goods.
90. Set-off.
91. Plea of matter subsequent to action.
92. Plea Puis darrein continuance, when and how to be pleaded.
93. Payment into court.
94. Payment into court in actions on money bonds, and for detainer.
95. Payment into court how pleaded.
96. Payment of money into court.
97. Proceeding by plaintiff after payment into court.
98. Pleas to actions partaking both of breach of contract and wrong.
99. Payment, set-off, and other pleadings which can be construed distributively shall be so construed.
100. Traverse of the declaration.
101. Traverse of plea or subsequent pleading of defendant.
102. Traverse of replication or subsequent pleading of the plaintiff.
103. Equitable defence may be pleaded.
104. Equitable defence after judgment.
105. Equitable replication.
106. Court or judge may strike out equitable plea or replication.
107. Actions on lost instruments.
108. Joinder of issue.
109. As to pleading and demurring together.
110. Several matters may be pleaded at any stage of the pleadings.
111. Objections to pleadings to be heard on application to plead several matters.
112. Certain pleas may be pleaded together without leave.
113. For pleading several matters without leave, judgment may be signed.
114. One new assignment only allowed in respect of the same cause of action.

Clause.
115. Pleas not to be repeated.
116. Form of demurrer and joinder in demurrer.
117. Time for pleading after amendment.
118. Pleadings subsequent to the declaration not to be filed.

Examples of pleading.

119. Forms in schedule may be adopted.

Judgment by default, and ascertaining amount to be recovered.

120. Rule to compute unnecessary.
121. Inquiry of damages may be directed to take place before the master.
122. Ordinary writ of inquiry in other cases.
123. Inquiries may be directed to take place before master of the court. Inquiries may be directed to take place before a judge.

Discovery.

124. Affidavits on new matter.
125. Power to court or judge to direct oral examination of witnesses.
126. Proceedings before and upon such examination.
127. Examination of person who refuses to make an affidavit.
128. Proceedings upon order for examination.
129. Discovery of documents.
130. Power to deliver written interrogatories to opposite party.
131. Affidavits by party proposing to interrogate, or his attorney.
132. Oral examination of parties, when to be allowed.
133. Proceedings upon such rule or order.
134. Depositions upon such examinations to be returned to master's office.
135. Examiner may make report to the court.
136. Costs of rule and examination to be in the discretion of the court.

Mandamus and injunction.

137. Action for Mandamus to enforce the performance of duties.
138. Declaration in action for Mandamus.
139. Proceedings upon claim for Mandamus.

Clause.
140. Judgment and execution.
141. Form of peremptory writ.
142. Effect of writ of Mandamus, and proceedings to enforce it.
143. The court may order the act to be done at the expense of the defendant.
144. Prerogative writ of Mandamus preserved.
145. Proceedings for prerogative writ of Mandamus.
146. Proceedings on prerogative writ of Mandamus.
147. Specific delivery of chattels.
148. Claim of writ of injunction.
149. Form of writ of summons and indorsement thereon.
150. Form of proceedings and of judgment.
151. Writ of injunction may be applied for at any stage of the cause.
152. Costs of writs of Mandamus and injunction may be included in writs.

Notice of trial, inquiry, and countermand.

153. Time for notice of trial and inquiry.
154. Notice of countermand.
155. Costs of the day.
156. Proceeding where plaintiff neglects to bring on the cause to be tried.

Nisi Prius record.

157. Nisi Prius record not to be sealed or passed.

Juries and jury process.

158. Precept by judges of assize to summon jurors for civil as well as criminal trials.
159. A printed panel to be prepared and annexed to the record.
160. Sheriffs of county and county of city of Dublin to summon common jurors, and prepare a panel to be annexed to the record.
161. Special jurors to be summoned to try all special jury causes.
162. Mode of obtaining a special jury.
163. Remedy for delay by notice of trial by special jury.
164. Notice to sheriff of trial by special jury.

Clause.
165. If special jury not summoned, cause to be tried by a common jury.
166. View to be by rule.
167. Court or judge may provide for view out of the county or county of city in which action is to be tried.
168. Inspection by jury of parties or witnesses.
169. Rule or order for summoning jury.
170. Proceedings before jurors so returned.
171. Defendant's right to try upon default of the plaintiff preserved.
172. Two judges may sit at same time for trial of causes pending in the same court.
173. Power to the court or judge in certain cases to direct trial to take place before chairman or recorder.

Arbitration.

174. Power to court or judge to direct arbitration before trial.
175. Special case may be stated, and question of fact tried.
176. Arbitrator may state special case.
177. Power to judge to direct arbitration at time of trial, when issues of fact left to his decision.
178. Proceedings before and power of such arbitrator.
179. Power to send back to arbitrator.
180. Application to set aside the award.
181. Enforcing of awards within period for setting them aside.
182. If action commenced by one party after all have agreed to arbitration, the court or judge may stay proceedings.
183. On failure of parties or arbitrators, court or judge may appoint single arbitrator or umpire.
184. When reference is to two arbitrators, and one party fail to appoint, other party may appoint arbitrator to act alone.
185. Two arbitrators may appoint umpire.
186. Award to be made in three months, unless parties or court enlarge time.
187. Rule to deliver possession of land pursuant to award to be enforced as a judgment in ejectment.
188. Agreement or submission in writing may be made rule of court, unless a contrary intention appear.

Admission of documents, proceedings at trial, and evidence.

Clause.
189. Admission of documents.
190. Proof of admissions.
191. Proof of notice to produce.
192. Speeches to the jury.
193. Power to adjourn trial.
194. Affirmation instead of oath in certain cases.
195. Persons making a false affirmation to be subject to the same punishment as for perjury.
196. How far a party may discredit his own witness.
197. Proof of contradictory statements of adverse witness.
198. Cross-examination as to previous statements in writing.
199. Proof of previous conviction of a witness may be given.
200. Attesting witness need not be called except in certain cases.
201. Comparison of disputed writing.
202. Provision for stamping documents at the trial.
Clause A.—Officer of the court to receive the duty and penalty.
Clause B.—Secondary evidence may be given of lost documents where original unstamped.
Clause C.—The last two preceding sections not to apply where document cannot be stamped after execution.
Clause D.—No document under this Act to require a stamp.
203. No new trial for ruling as to stamp.

Bills of exceptions.

204. Form of bill of exceptions.

Judgment.

205. Judgment not to be arrested on technical grounds.
206. Entry of judgment on the roll unnecessary for execution.
207. Judgment for money demands without distinction between debt and damages.

Execution.

208. Execution after trial.
209. Ground writs not necessary.
210. Expenses of execution.

Clause.
211. Writs of execution to remain in force for one year, and to be renewed if necessary.
212. Production of renewed writ evidence of renewal.
213. Sheriff or gaoler may discharge prisoner by authority of attorney in the cause.
214. Proceedings for charging in execution a person already in prison of the court.
215. Sheriff empowered to seize money, bank notes, &c., and to pay money or bank notes to execution creditor.
216. Attachment of Government and public stock and shares.
217. Order in respect of money in name of accountant general.
218. Order of court or judge to be made in the first instance ex parte, and notice to bank or company to operate as a distringas.
219. Execution against beneficed clergymen.
220. Return of devastavit not to be made but on finding of jury.
221. Examination of judgment debtor as to debts due to him.
222. Judge may order an attachment of debts.
223. Order for attachment to bind debts.
224. Proceedings to levy amount due from garnishee to judgment debtor.
225. Judge may allow judgment creditor to sue garnishee.
226. Garnishee discharged.
227. Attachment book to be kept by the masters of each court.
228. Costs of application.
229. Judge may refuse to interfere in proceedings to attach debts.
230. Proceedings when third person has a lien on the debt.
231. Judge may bar claim of third person, and make orders.
232. Mode of enforcing writs of injunction against corporations.

Assignment of breaches.

233. Assignment of breaches on penal covenant.
234. Damages on breaches to be ascertained.
235. Suggestion of further breaches and execution on same.

Proceedings to revive.

236. Execution in six years without revival.
237. Judgment to be revived by writ or with leave of court or judge by suggestion.

Clause.
238. Proceedings upon application for suggestion to revive judgment.
239. Plea of payment of judgment.
240. Writ of revivor, and proceedings thereon.
241. Writs of scire facias in other cases to be tested, directed, and proceeded upon in like manner.
242. Appearance to writ of revivor.
243. As to issue of writ of revivor upon judgment more than ten years old.

Satisfaction of judgments.

244. Satisfaction of judgments by party.
245. Court may order satisfaction to be entered on judgment fully paid.

Death, marriage, and bankruptcy.

246. Action not to abate by death.
247. Proceedings in case of death of one or more of several plaintiffs or defendants.
248. Proceeding in case of death of sole plaintiff.
249. Proceeding upon death of sole or sole surviving defendant.
250. Death between verdict and judgment.
251. Proceedings in case of death after interlocutory and before final judgment.
252. To compel continuance or abandonment of action in case of death.
253. Marriage not to abate action.
254. Bankruptcy and insolvency of plaintiff, when not to abate action.

Arrest of judgment and judgment Non obstante veredicto.

255. Upon motion in arrest of judgment, or for judgment Non obstante veredicto, omitted facts may by leave of the court be suggested.
256. Judgment to follow result of suggestion.
257. Cost of abortive issues.

Error and appeal.

258. Error to be brought within six years.
259. Error may be brought by legal representative of a deceased party.

Clause.
260. Proviso for disabilities.
261. Writ of error not necessary.
262. Error in law how brought.
263. Error not supersedeas till service of the copy of the note and grounds of error.
264. Bail in error.
265. Suggestion instead of assignment of and joinder in error.
266. Roll to be made up and suggestion entered by plaintiff in error.
267. Error brought by one of several persons against whom judgment has been given.
268. Judgment roll to be brought into court instead of transcript.
269. Jurisdiction of Courts of Error over the proceedings.
270. Court of Error to have like powers with court below.
271. Proceedings in error in fact.
272. Plaintiff may discontinue proceedings in error.
273. Defendant may confess error, and consent to reversal of judgment.
274. Death of plaintiff in error no abatement.
275. Providing for death of one of several plaintiffs in error.
276. Proceedings upon death of sole plaintiff or of all the plaintiffs in error.
277. Death of defendant in error no abatement.
278. Proceedings upon death of one of several defendants in error.
279. Proceedings upon death of sole defendant or of all the defendants in error.
280. Marriage not to abate proceedings in error.
281. Grounds to be stated in rule nisi for new trial.
282. If rule nisi refused, party may appeal.
283. Appeal upon rule discharged or absolute.
284. Courts of error to be courts of appeal.
285. Notice of appeal.
286. Bail.
287. Form of appeal.
288. Rule nisi granted on appeal, how disposed of.
289. Judgment of court of appeal.
290. Powers of court of appeal as to costs and otherwise.

Clause.
291. Error upon award of trial de novo.
292. Payment of costs upon new trial on matter of fact.

Interpleader.

293. Interpleader may be granted though titles have not a common origin.
294. Court or judge may direct sale of goods seized in execution.
295. Power to court or judge to decide summarily in certain cases.
296. Special case may be stated where facts undisputed.
297. Judgment and decision when to be final.
298. General provisions to apply to interpleader.
299. Rules, orders, &c., made in interpleader proceedings may be entered of record and made evidence.

Summary procedure upon bills of exchange and promissory notes.

300. Actions upon bills of exchange, &c., may in certain cases be commenced by writ of summons as form in schedule (A.) Plaintiff, on filing affidavit of personal service, may at once sign final judgment as form in schedule (A.)
301. Defendant showing a defence upon the merits to have leave to appear.
302. Judge may under special circumstances set aside judgment.
303. Judge may order bill to be deposited with officer of court in certain cases.
304. Remedy for the recovery of expenses of noting non-acceptance of dishonoured bill.
305. Holder of bill of exchange may issue one summons against all or any of the parties to the bill.

Ejectment.

306. Ejectment to be commenced by writ of summons.
307. Form and duration of writ of ejectment.
308. Writ of ejectment for nonpayment of rent upon whom to be served.
309. Service of writ of ejectment.
310. Appearance of persons named in the writ.
311. Appearance of persons not named.
312. Appearance and defence by landlord.

Clause.
313. Notice to defend for part only.
314. Want of certainty cured by particulars.
315. Defence by persons not in possession.
316. Judgment for default of appearance or defence.
317. Issue how made up.
318. Special case may be stated.
319. Trial of issue.
320. Verdict when title appears to have expired before trial.
321. Trial may be ordered to take place in any county.
322. Nonappearance at trial.
323. Mesne rates may be recovered by ejectment to the day of trial.
324. Ascertainment of rent.
325. Special verdict and bill of exceptions.
326. Judgment and execution upon finding for claimant.
327. Judgment upon finding for defendant.
328. Execution for recovery of possession and costs may be joint and separate.
329. Defence by joint tenants, tenants in common, or coparceners.
330. Trial and judgment in ejectment against joint tenants, tenants in common, and coparceners.
331. Claimant in second ejectment for same premises against same defendant may be ordered to give security for costs.
332. Action not to abate by death.
333. Proceeding upon death before trial, where right survives.
334. Proceedings upon death before trial where right does not survive.
335. Proceedings upon death of one of several claimants having obtained a verdict.
336. Proceedings in case of death of claimant where right does not survive.
337. Proceedings upon death of one of several joint defendants.
338. Upon death of all the defendants in ejectment before trial.
339. Upon death of all defendants in ejectment after verdict.
340. Upon death before trial of defendant in ejectment who defends separately for part.
341. Upon death of defendant defending separately for property in respect of which others also defend.

Clause.
342. Claimant may discontinue by notice.
343. Discontinuance of action by one of several claimants.
344. Judgment for not proceeding to the trial after notice.
345. Defendant may confess the action.
346. Confession by one of several defendants defending separately for part.
347. Confession by one of several defendants who defend for the same property.
348. Court or a judge may in action of ejectment on the title direct temporary bars to be waived.
349. Effect of judgment.
350. Error and bail in error in ejectment.
351. On trials after bail found, judge shall not stay the execution except by consent, or on tenants finding security. Bail in error to discharge such security.
352. Recognizances to be taken as other recognizances of bail; actions on them limited.
353. Saving of former remedies.
354. In ejectment by mortgagee, the mortgagors rendering the principal, interest, and costs in court shall be deemed a full satisfaction, and the court may compel the mortgagee to re-convey.
355. Not to extend to cases where the right of redemption is controverted, or the money due not adjusted; or to prejudice any subsequent mortgage.
356. Jurisdiction of courts and judges.
357. Relief against forfeiture for non-insuring.
358. Minute of relief granted.
359. Appeal to the court from order of judge.
360. Power to appeal from order of court.
361. Proof of title.

Action for replevin of goods.

362. Action for replevin to be commenced by writ of summons.
363. Plaintiff may sue out also a writ of replevin.
364. If plaintiff in replevin be nonprossed or nonsuited, defendant entitled to judgment and execution for his rent.
365. Payment into court in replevin.

Real actions.

Clause.
366. Dower, writ of right of dower, and quare impedit abolished as real actions, and to be commenced by writ of summons.
367. Writ, and all proceedings thereupon, to be same as in ordinary actions.

Error on special case.

368. Error may be brought on a special case.

Miscellaneous provisions.

369. Injunctions and orders to stay proceedings to have a specific effect.
370. False evidence.
371. Courts may appoint sittings.
372. Amendments.
373. The lord lieutenant may direct all or part of this Act to extend to any court of record.
374. General rules may be made by the judges.
375. New forms of writs and other proceedings.
376. Judges may transact business at chambers.
377. Rules may be made by each court for government of its officers.
378. Enactment of certain sections to apply to all civil and criminal courts in Ireland.
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A

B I L L

INTITULED

An Act to amend the pleading, practice, and procedure of the Courts of Common Law in Ireland. A.D. 1869.

[Note.—*The Words, Clauses, and Schedule printed in Red Ink are proposed to be inserted in Committee.*]

WHEREAS it is expedient to amend the process, practice, and mode of pleading in the superior courts of common law at Dublin, with the view of establishing uniformity in the superior courts of common law in England and Ireland in the process, practice, and mode of pleading therein:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Commencement of Act.

1. The provisions of this Act shall come into operation on the second day of November in the year one thousand eight hundred and sixty-nine.

Appointment of Master and Clerk of the Rules.

2. When and so often as a vacancy shall occur in the office of Master or of Clerk of the Rules in either of the Courts of Queen's Bench, Common Pleas, and Exchequer in Ireland by death, resignation, or otherwise, the Lord Chief Justice of the Court of Queen's Bench in that Court and the Lord Chief Justice of the Court of Common Pleas in that Court as to any such vacancy in either of those Courts respectively, and the Lord Chief Baron of the Court of Exchequer in that Court as to any such vacancy in that Court, shall nominate and appoint to fill such vacant office some fit and proper person eligible for such office as required by the Act passed in the session of Parliament held in the seventh and eighth years of the reign of Her present Majesty, intituled "An Act to regulate and reduce the expenses of "the offices attached to the Superior Courts of Common Law in "Ireland payable out of the Consolidated Fund, anything in the "said Act to the contrary notwithstanding."

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Appointment of the Clerk of the Writs and junior clerk in the Writ, Appearance, and Seal Office.

3. When and so often as a vacancy shall occur by death, resignation, or otherwise in the office of Clerk of the Writs appointed under the Act passed in the thirteenth year of the reign of Her present Majesty, intituled "An Act for the regulation "of Process and Practice in the Superior Courts of Common "Law in Ireland," or under this Act, the Lord Chief Justice of the Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron of the Exchequer shall, in rotation, fill up such vacancy by the appointment of such of the assistants or clerks then in the Writ and Appearance and Seal Office (or by whatever other name the office in which the Clerk of the Writs shall have been acting shall be called), holding situations inferior to that which shall be so vacant, as such Lord Chief Justice or Lord Chief Baron (as the case shall be) shall select and appoint; and that on any future vacancy in the junior clerkships of said office the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron (as the case shall be) shall, in rotation, appoint some fit and proper person to be such junior clerk, the first vacancy in each of the said cases respectively to be filled by the Lord Chief Justice of the Court of Queen's Bench, the second by the Lord Chief Justice of the Court of Common Pleas, and the third by the Lord Chief Baron, and so on, in rotation as aforesaid, in case of future vacancies.

Writs for commencement of actions.

And with respect to the writs for the commencement of personal actions in the superior courts of common law at Dublin, against defendants, whether in or out of the jurisdiction of the courts, be it enacted as follows:

Personal actions when defendant resides within the jurisdiction to be commenced by writ of summons in Form No. 1. of Schedule (A.)
15 & 16 Vict. c. 76. s. 2.
16 & 17 Vict. c. 113. s. 8.

4. All personal actions brought in Her Majesty's superior courts of common law at Dublin, where the defendant is residing or supposed to reside within the jurisdiction of the said courts, other than in cases of summary procedure upon bills of exchange and promissory notes, which are herein-after specially provided for, shall be commenced by writ of summons in the form contained in the Schedule (A.) to this Act annexed, marked No. 1., and in every such writ and copy thereof the place and county of the residence or supposed residence of the party defendant, or wherein the defendant shall or shall be supposed to be, shall be mentioned; and such writ shall be authenticated by the common seal of the superior courts of law at Dublin, to be thereunto set by the clerk of the writs, who shall not be required to sign such writ, but shall enter the particulars thereof in a book to be kept for that purpose,

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at the time of the sealing thereof; and such writ shall bear date on the day on which it shall be sealed, and may be issued out at any time, notwithstanding any privilege.

Writs for commencement of actions to be issued in rotation for the several courts. 16 & 17 Vict. c. 113. s. 15.

5. All writs of summons for the commencement of actions in the said courts, in cases in which they have a common jurisdiction, shall, by the clerk of the writs, be entered and appropriated to the several superior courts of law in rotation by twenty-fives, that is to say, the first twenty-five for the Queen's Bench, the second twenty-five for the Common Pleas, and the third twenty-five for the Exchequer, and so on in continuous rotation of twenty-fives for the several courts, so as to produce and keep up an equal distribution of such writs; and all subsequent proceedings in any action so commenced shall be had and taken in the court to which the said writ shall be in the course of rotation appropriated, and shall be the business of the said court and the offices thereof: provided always, that no objection on the ground of any privilege possessed or claimed by any defendant to be sued in any particular court shall be valid in any such action.

No objection on ground of privilege to be valid.

No form or cause of action to be mentioned in writ. 15 & 16 Vict. c. 76. s. 3.

6. It shall not be necessary to mention any form or cause of action in any writ of summons, or in any notice of writ of summons, issued under the authority of this Act in any personal action.

Writ to state names of all defendants, and for only one action. 15 & 16 Vict. c. 76. s. 4.

7. Every writ of summons shall contain the names of all the defendants, and shall not, save in cases of summary procedure upon bills of exchange and promissory notes, contain the name or names of any defendant or defendants in more actions than one.

Writ to be dated on day of issuing, and tested in name of superior courts of law. 15 & 16 Vict. c. 76. s. 5.

8. Every writ of summons for the commencement of actions in the said courts, in cases in which they have a common jurisdiction, shall bear date on the day on which the same shall be issued, and shall be tested in the name of the superior courts of common law at Dublin, according to the form contained in the writ marked No. 1. in the Schedule (A.) to this Act annexed.

Writ to be indorsed with name and abode of attorney, or a memorandum that writ has been sued by plaintiff in person. 15 & 16 Vict. c. 76. s. 6.

9. Every writ of summons shall be indorsed with the name and place of abode of the attorney actually suing out the same; and in case no attorney shall be employed to issue the writ, then it shall be endorsed with a memorandum expressing that the same has been sued out by the plaintiff in person, mentioning the city, town, or parish, and also the name of the street, and number of the house of such plaintiff's residence, if any such there be.

Attorney on demand to declare whether writ

10. Every attorney whose name shall be indorsed on any writ issued by the authority of this Act shall, on demand in writing, made by or on behalf of any defendant, declare forthwith whether

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issued by his authority, and name and abode of his client if ordered. 15 & 16 Vict. c. 76. s. 7.

If writ issued without authority of attorney, proceedings to be stayed.

such writ has been issued by him or with his authority or privity; and if he shall answer in the affirmative, then he shall also, in case the court or a judge shall so order and direct, declare in writing, within a time to be allowed by such court or judge, the profession, occupation, or quality and place of abode of the plaintiff, on pain of being guilty of a contempt of the court into which such writ shall be returnable; and if such attorney shall declare that the writ was not issued by him, or with his authority or privity, all proceedings upon the same shall be stayed, and no further proceedings shall be taken thereupon without leave of the court or a judge.

Indorsement of debt and costs on writ and copy of writ for a debt, with notice that proceedings will be stayed on payment within four days.

11. Upon the writ and copy of any writ served for the recovery of any debt, except in cases of summary procedure upon bills of exchange and promissory notes, which are herein-after specially provided for, the amount of the debt shall be stated, and the amount of what the plaintiff's attorney claims for the costs of such writ, copy, and service, and attendance to receive debt and costs, and it shall be further stated that upon payment thereof within four days to the plaintiff or his attorney, further proceedings will be stayed; which indorsement shall be written or printed in the following form or to the like effect:

"The plaintiff claims £ for debt, and
"£ for costs, and if the amount thereof
"be paid to the plaintiff or to his attorney within four days
"from the service hereof further proceedings will be stayed."

15 & 16 Vict. c. 76. s. 8.

But the defendant shall be at liberty, notwithstanding such payment, to have the costs taxed, and if more than one-sixth shall be disallowed the plaintiff's attorney shall pay the costs of taxation.

Concurrent writs may be issued. 15 & 16 Vict. c. 76. s. 9.

12. The plaintiff in any action may, at any time during six months from the issuing of the original writ of summons, issue one or more concurrent writ or writs, each concurrent writ to bear teste of the same day as the original writ, and to be marked with a seal bearing the word "concurrent," and the date of issuing the concurrent writ; and such seal shall be provided and kept for that purpose at the office of the clerk of the writs, and shall be impressed by him upon the writ: provided always, that such concurrent writ or writs shall only be in force for the period during which the original writ in such action shall be in force.

Renewal of writs of summons to save the statute of

13. No original writ of summons shall be in force for more than six months from the day of the date thereof, including the day of such date; but if any defendant therein named has not been served

limitation, and for other purposes. 15 & 16 Vict. c. 76. s. 11. 16 & 17 Vict. c. 113. s. 28.

therewith, the original or concurrent writ of summons may be renewed at any time before its expiration for six months from the date of such renewal, including the day of such date, and so from time to time during the currency of the renewed writ, by being marked with the common seal of the superior courts, together with a memorandum signed or initialed by the officer, of the date of the day, month, and year of such renewal; and a writ of summons so renewed shall remain in force and be available for all purposes from the date of the issuing of the original writ of summons: provided always, that no writ of summons so renewed shall be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited, unless such renewal shall be had by leave of the court or a judge, on an affidavit to satisfy the said court or judge that reasonable diligence was used to effect service thereof.

Production of renewed writ evidence of commencement of action. 15 & 16 Vict. c. 76. s. 13.

14. The production of a writ of summons purporting to be marked with the common seal of the said superior courts and initialed by the said officer, showing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed and of the commencement of the action as of the first date of such renewed writ for all purposes.

Writ may be served in any county. 15 & 16 Vict. c. 76. s. 14.

15. The writ of summons in any action may be served in any county.

Indorsement of service to be made. 15 & 16 Vict. c. 76. s. 15.

16. The person serving the writ of summons shall and he is hereby required, within three days after such service, to indorse on the writ the day of the month and week of the service thereof; otherwise the plaintiff shall not be at liberty, in case of nonappearance, to proceed under this Act; and every affidavit of service of such writ shall mention the day on which such indorsement was made.

As to service of writ on corporations and inhabitants of baronies and towns. 15 & 16 Vict. c. 76. s. 16.

17. Every such writ of summons issued against a corporation aggregate may be served on the mayor or other head officer, or on the town clerk, clerk, treasurer, or secretary of such corporation; and every such writ issued against the inhabitants of a barony, half-barony, or other like district, may be served on the high constable thereof, or any one of the high constables thereof; and every such writ issued against the inhabitants of any county of any city or town, or the inhabitants of any franchise, liberty, city, town, or place, not being part of a barony or other like district, on some peace officer thereof, or other known and responsible officer thereof.

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Proceedings where personal service cannot be effected, but defendant knows of the writ and evades service. 15 & 16 Vict. c. 76. s. 17.

18. The service of the writ of summons, wherever it may be practicable, shall be personal, but it shall be lawful for the plaintiff to apply from time to time, on affidavit, to the court into which the writ of summons is returnable, or to a judge thereof; and in case it shall appear to such court or judge that reasonable efforts have been made to effect personal service, and either that the writ has come to the knowledge of the defendant, or that he wilfully evades service of the same, and has not appeared thereto, it shall be lawful for such court or judge to order that the plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as to the court or judge may seem fit.

As to actions against British subjects residing out of the jurisdiction of superior courts. 15 & 16 Vict. c. 76. s. 18.

19. In case any defendant, being a British subject, is residing out of the jurisdiction of the superior courts, in any place except in Scotland or England, it shall be lawful for the plaintiff to issue a writ of summons in the form contained in the Schedule (A.) to this Act annexed, marked No. 2., which writ shall bear the indorsement contained in the said form, purporting that such writ is for service out of the jurisdiction of the said superior courts; and the time for appearance by the defendant to such writ shall be regulated by the distance from Ireland of the place where the defendant is residing; and it shall be lawful for such court or judge as aforesaid, upon being satisfied by affidavit that there is a cause of action which arose within the jurisdiction, or in respect of the breach of a contract made within the jurisdiction, and that the writ was personally served upon the defendant, or that reasonable efforts were made to effect personal service thereof upon the defendant, and that it came to his knowledge, and either that the defendant wilfully neglects to appear to such writ, or that he is living out of the jurisdiction of the said courts in order to defeat and delay his creditors, to direct from time to time that the plaintiff shall be at liberty to proceed in the action in such manner and subject to such conditions as to such court or judge may seem fit, having regard to the time allowed for the defendant to appear being reasonable, and to the other circumstances of the case: provided always, that the plaintiff shall, and he is hereby required to prove the amount of the debt or damages claimed by him in such action, either before a jury, upon a writ of inquiry, or before one of the masters of the said superior courts in the manner herein-after provided, according to the nature of the case, as such court or judge may direct; and the making such proof shall be a condition precedent to his obtaining judgment.

As to actions against foreigners

20. In any action against a person residing out of the jurisdiction of the said courts, and not being a British subject, the like proceed-

ings may be taken as against a British subject resident out of the jurisdiction, save that in lieu of the form of writ of summons in the Schedule (A.) to this Act annexed, marked No. 2., the plaintiff shall issue a writ of summons according to the form contained in the said Schedule (A.), marked No. 3., and shall in manner aforesaid serve a notice of such last-mentioned writ upon the defendant therein mentioned, which notice shall be in the form contained in the said schedule, also marked No. 3.; and such service shall be of the same force and effect as the service of the writ of summons in any action against a British subject resident abroad, and by leave of such court or judge as aforesaid, upon their or his being satisfied by affidavit as aforesaid, the like proceedings may be had and taken thereupon.

residing out of the jurisdiction of superior courts. 15 & 16 Vict. c. 76. s. 19.

21. In case any defendant is residing out of the jurisdiction of the said superior courts, it shall be lawful for the said court or judge as aforesaid, upon being satisfied by affidavit that there is a cause of action which arose within the jurisdiction, or in respect of the breach of a contract made within the jurisdiction, and that such defendant can be properly served through any agent or representative, attorney or solicitor, or any manager of the real or personal estate of such defendant within such jurisdiction, upon an application made at any time while the said writ shall be in force, to authorize such substitution of service through the post office, or in such manner, and with such extensions of time for service and appearance, as to them or him shall seem fit; and that in default of an appearance the plaintiff may proceed thereon to judgment as the court or judge may direct; and the taxing officer shall allow reasonable costs on such proceedings for substituting service or effecting such service as the court or judge shall have directed or deemed good.

Courts may direct substitution of service. 16 & 17 Vict. c. 113. s. 34.

22. If the plaintiff or his attorney shall omit to insert in or endorse on any writ or copy thereof any of the matters hereinbefore required to be inserted therein or endorsed thereon, such writ or copy thereof shall not on that account be held void, but it may be set aside as irregular or amended, upon application to be made to the court into which the same shall be returnable, or to a judge; and such amendment may be made upon application to set aside the writ upon such terms as to the court or judge may seem fit.

Omission to insert or endorse matters in or on writ not to nullify it. 15 & 16 Vict. c. 76. s. 20.

23. If any of the forms of writ of summons contained in the Schedule (A.) to this Act annexed, and marked respectively Nos. 1., 2., and 3., shall by mistake or inadvertence be substituted for any

Substitution by mistake or inadvertence of one

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form of writ for another, may be amended without costs. 15 & 16 Vict. c. 76. s. 21.

other of them, such mistake or inadvertence shall not be an objection to the writ or any other proceeding in such action; but the writ may, upon an ex parte application to the court or a judge, whether before or after any application to set aside such writ or any proceeding thereon, and whether the same or notice thereof shall have been served or not, be amended by such court or judge without costs.

Writs for service within and without jurisdiction may be concurrent. 15 & 16 Vict. c. 76. s. 22.

24. A writ for service within the jurisdiction may be issued and marked as a concurrent writ with one for service out of the jurisdiction, and a writ for service out of the jurisdiction may be issued and marked as a concurrent writ with one for service within the jurisdiction.

Special endorsement of the particulars of debts or liquidated demands may be made on the writ. 15 & 16 Vict. c. 76. s. 25.

25. In all cases other than cases of summary procedure upon bills of exchange and promissory notes, which are herein-after specially provided for, where the defendant resides within the jurisdiction of the said courts, and the claim is for a debt or liquidated demand in money, with or without interest, arising upon a contract expressed or implied, as for instance on a bill of exchange, promissory note, or cheque, or other simple contract debt, or on a bond or contract under seal for payment of a liquidated amount of money, or on a statute where the sum sought to be recovered is a fixed sum of money, or in the nature of a debt, or on a guarantee, whether under seal or not, where the claim against the principal is in respect of such debt or liquidated demand, bill, cheque, or note, the plaintiff shall be at liberty to make upon the writ of summons and copy thereof a special endorsement of the particulars of his claim in the form contained in the Schedule (A.) to this Act annexed, marked No. 4., or to the like effect; and when a writ of summons has been endorsed in the special form herein-before mentioned, the endorsement shall be considered as particulars of demand, and no further or other particulars of demand need be delivered, unless ordered by the court or a judge.

Special endorsement to stand for particulars of demand.

Appearance and proceedings in default of appearance.

And with respect to the appearance of the defendant, and the proceedings of the plaintiff in default of appearance, be it enacted as follows:

Final judgment upon writ specially endorsed in default of appearance. 15 & 16 Vict. c. 76. s. 27.

26. In case of nonappearance by the defendant, where the writ of summons is endorsed in the special form herein-before provided, it shall and may be lawful for the plaintiff, on filing an affidavit of personal service of the writ of summons, or the order of a court or judge for leave to proceed under the provisions of this Act, and a copy of the writ of summons, at once to sign final judgment in the

form contained in the Schedule (A.) to this Act annexed, marked No. 5, (on which judgment no proceeding in error shall lie), for any sum not exceeding the sum endorsed on the writ, together with interest at the rate specified, if any, to the date of the judgment, and a sum for costs (to be fixed by a general order to be made as herein-after mentioned), unless the plaintiff claim more than such fixed sum, in which case the costs shall be taxed in the ordinary way; and the plaintiff may upon such judgment issue execution at the expiration of eight days from the last day for appearance, and not before: provided always, that it shall be lawful for the court or a judge, either before or after final judgment, to let in the defendant to defend, upon an application supported by satisfactory affidavits accounting for the nonappearance, and disclosing a defence upon the merits.

Judgment for non-appearance where the writ is not endorsed in the special form. 15 & 16 Vict. c. 76. s. 28.

27. In case of such nonappearance, where the writ of summons is not endorsed in the special form herein-before provided, it shall and may be lawful for the plaintiff, on filing an affidavit of personal service of the writ of summons, or the order for leave to proceed under the provisions of this Act, or in the case of service substituted under the provisions of this Act, on filing the order directing such substitution of service, and an affidavit, and such documents as may be necessary for the purpose of showing that the requirements of such order have been satisfied, and a copy of the writ of summons, to file a declaration endorsed with a notice to plead in eight days, and to sign judgment by default at the expiration of the time to plead so endorsed as aforesaid, and in the event of no plea being delivered where the cause of action mentioned in the declaration is for any of the claims which might have been inserted in the special endorsement on the writ of summons herein-before provided, and the amount claimed is endorsed on the writ of summons, the judgment shall be final, and execution may issue for an amount not exceeding the amount endorsed on the writ of summons, with interest at the rate specified, if any, and the sum fixed by a general order for costs, as herein-before mentioned, unless the plaintiff claim more, in which case the costs shall be taxed in the ordinary way: provided always, that in such case the plaintiff shall not be entitled to more costs than if he had made such special endorsement and signed judgment upon non-appearance.

Appearance to be entered at any time before judgment.

28. The defendant may appear at any time before judgment, and if he appear after the time specified either in the writ of summons or in any order to proceed as if personal service had been

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15 & 16 Vict. c. 76. s. 29.

effected, or in any order directing substitution of service, he shall, after notice of such appearance to the plaintiff or his attorney, as the case may be, be in the same position as to pleadings and other proceedings in the action as if he had appeared in time: provided always, that a defendant appearing after the time appointed by the writ shall not be entitled to any further time for pleading or any other proceeding than if he had appeared within such appointed time.

Appearance by the defendant in person to give an address, at which proceedings may be served. 15 & 16 Vict. c. 76. s. 30.

29. Every appearance by the defendant in person shall give an address in Dublin, at which it shall be sufficient to leave all pleadings and other proceedings not requiring personal service; and if such address be not given the appearance shall not be received; and if an address so given shall be illusory or fictitious, the appearance shall be irregular, and may be set aside by the court or a judge, and the plaintiff may be permitted to proceed by posting the proceedings in the master's office without further service.

Mode of appearance to writ of summons. 15 & 16 Vict. c. 76. s. 31.

30. The mode of appearance to every such writ of summons or under the authority of this Act shall be by delivering a memorandum in writing according to the following form, or to the like effect:

"*A.B.*, plaintiff, against *C.D.*, *or* against *C.D.* and another, *or* against *C.D.* and others: } The defendant *C.D.* appears in person, *or* *E.F.*, attorney for *C.D.*, appears for him.

[*If the defendant appears in person, here give his address.*]

"Entered the day of 18 ."

Such memorandum to be delivered to the proper officer or person in that behalf, and to be dated on the day of the delivery thereof.

Proceedings mentioned in writ or notice may be had and taken. 15 & 16 Vict. c. 76. s. 32.

31. All such proceedings as are mentioned in any writ or notice issued under this Act shall and may be had and taken in default of a defendant's appearance.

Proceedings where only some of the defendants appear to a writ specially endorsed. 15 & 16 Vict. c. 76. s. 33.

32. In any action brought against two or more defendants, where the writ of summons is endorsed in the special form hereinbefore provided, if one or more of such defendants only shall appear, and another or others of them shall not appear, it shall and may be lawful for the plaintiff to sign judgment against such defendant or defendants only as shall not have appeared, and, before declaration against the other defendant or defendants, to issue execution thereupon, in which case he shall be taken to have abandoned his action against the defendant or defendants who shall have appeared; or the plaintiff may, before issuing such execution, declare against such defendant or defendants as shall have appeared, stating by way of suggestion the judgment obtained against the other defendant or defendants who shall not have appeared, in which case the

judgment so obtained against the defendant or defendants who shall not have appeared shall operate and take effect in like manner as a judgment by default obtained before the commencement of the "Common Law Procedure Amendment Act (Ireland), 1853," against one or more of the several defendants in an action of debt before the commencement of the said Act. A.D. 1869.

And with respect to the joinder of parties to actions, be it enacted as follows: *Joinder of parties.*

33. The joinder of too many plaintiffs shall not be fatal, but every action may be brought in the name of all the persons in whom the legal right may be supposed to exist; and judgment may be given in favour of the plaintiffs by whom the action is brought, or of one or more of them; or in case of any question of misjoinder being raised, then in favour of such one or more of them as shall be adjudged by the court to be entitled to recover: provided always, that the defendant, though unsuccessful, shall be entitled to his costs occasioned by joining any person or persons in whose favour judgment is not given, unless otherwise ordered by the court or a judge. Joinder as plaintiffs of all persons supposed to be legally entitled. 23 & 24 Vict. c. 126. s. 19.

34. Upon the trial of such cause, a defendant who has therein pleaded a set-off may obtain the benefit of his set-off by proving either that all the parties named as plaintiffs are indebted to him, notwithstanding that one or more of such plaintiffs was or were improperly joined, or on proving that the plaintiff or plaintiffs who established their right to maintain the cause is or are indebted to him. Defendant to have benefit of set-off though some plaintiffs improperly joined. 23 & 24 Vict. c. 126. s. 20.

35. No other action shall be brought against the defendant by any person so joined as plaintiff in respect of the same cause of action. No other action for same claim to be brought. 23 & 24 Vict. c. 126. s. 21.

36. It shall and may be lawful for the court or a judge, at any time before the trial of any cause, to order that any person or persons not joined as plaintiff or plaintiffs in such cause shall be so joined; or that any person or persons originally joined as plaintiff or plaintiffs shall be struck out from such cause, if it shall appear to such court or judge that injustice will not be done by such amendment, and that the person or persons to be added as aforesaid consent, either in person or by writing under his, her, or their hands, to be so joined, or that the person or persons to be struck out as aforesaid were originally introduced without his, her, or their consent, or that such person or persons consent in the manner aforesaid to be so struck out; and such amendment shall Nonjoinder and misjoinder of plaintiffs may be amended before trial. 15 & 16 Vict. c. 76. s. 34.

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be made upon such terms as to the amendment of the pleadings, if any, postponement of the trial, and otherwise, as the court or judge by whom such amendment is made shall think proper; and when any such amendment shall have been made, the liability of any person or persons who shall have been added as co-plaintiff or co-plaintiffs shall, subject to any terms imposed as aforesaid, be the same as if such person or persons had been originally joined in such cause.

Nonjoinder and misjoinder of plaintiffs may be amended at the trial as in cases of amendments of variances under 3 & 4 Vict. c. 105. s. 48. 15 & 16 Vict. c. 76. s. 35.

37. In case it shall appear at the trial of any action that there has been a misjoinder of plaintiffs, or that some person or persons not joined as plaintiff or plaintiffs ought to have been so joined, and the defendant shall not, at or before the time of pleading, have given notice in writing that he objects to such misjoinder or nonjoinder, specifying therein the name or names of such person or persons, such misjoinder or nonjoinder may be amended as a variance at the trial by any court of record holding plea in civil actions, and by any judge sitting at nisi prius or other presiding officer, in like manner as to the mode of amendment, and proceedings consequent thereon, or as near thereto as the circumstances of the case will admit, as in the case of amendments of variances under the provisions of the forty-eighth section of an Act of Parliament passed in the session of Parliament held in the third and fourth years of the reign of Her Majesty the Queen, intituled "An Act for abolishing arrest on mesne process in civil "actions, except in certain cases; for extending the remedies of "creditors against the property of debtors; and for the further "amendment of the law and the better advancement of justice "in Ireland" (which section is hereby for the purposes of this Act re-enacted), if it shall appear to such court or judge or other presiding officer that such misjoinder or nonjoinder was not for the purpose of obtaining an undue advantage, and that injustice will not be done by such amendment, and that the person or persons to be added as aforesaid consent, either in person or by writing under his, her, or their hands, to be so joined, or that the person or persons to be struck out as aforesaid were originally introduced without his, her, or their consent, or that such person or persons consent in manner aforesaid to be so struck out; and such amendment shall be made upon such terms as the court or judge or other presiding officer by whom such amendment is made shall think proper; and when any such amendment shall have been made, the liability of any person or persons who shall have been added as co-plaintiff or co-plaintiffs shall, subject to any terms

imposed as aforesaid, be the same as if such person or persons had been originally joined in such action. A.D. 1869.

Upon notice or plea of nonjoinder of plaintiffs, proceedings may be amended. 15 & 16 Vict. c. 76. s. 36.

38. In case such notice be given, or any plea in abatement of nonjoinder of a person or persons as co-plaintiff or co-plaintiffs, in cases where such plea in abatement may be pleaded, be pleaded by the defendant, the plaintiff shall be at liberty to enter a side bar order to amend the writ and other proceedings before plea, by adding the name or names of the person or persons named in such notice or plea in abatement, and to proceed in the action without any further appearance on payment of the costs of and occasioned by such amendment only, and in such case the defendant shall be at liberty to plead de novo.

Misjoinder of defendants may be amended before or at trial. 15 & 16 Vict. c. 76. s. 37.

39. It shall and may be lawful for the court or a judge in the case of the joinder of too many defendants in any action on contract, at any time before the trial of such cause, to order that the name or names of one or more of such defendants be struck out, if it shall appear to such court or judge that injustice will not be done by such amendment; and the amendment shall be made upon such terms as the court or judge by whom such amendment is made shall think proper; and in case it shall appear at the trial of any action on contract that there has been a misjoinder of defendants, such misjoinder may be amended as a variance at the trial, in like manner as the misjoinder of plaintiffs has been hereinbefore directed to be amended, and upon such terms as the court or judge or other presiding officer by whom such amendment is made shall think proper.

Proceeding when nonjoinder of defendant objected to. 3 & 4 Vict. c. 105. ss. 37, 38.

40. No plea in abatement for the nonjoinder of any person as a co-defendant shall be allowed unless it shall be stated in such plea that such person is resident within the jurisdiction of the court, and unless the place of residence of such person shall be stated with convenient certainty in an affidavit verifying such plea; and upon any objection for the nonjoinder of a defendant being taken by plea in abatement, it shall be competent to the plaintiff to reply that such person has been discharged by bankruptcy or insolvency, or that the statute of limitations would be a bar to any action against him.

Upon plea in abatement for nonjoinder of defendants, pro-

41. In any action on contract where the nonjoinder of any person or persons as a co-defendant or co-defendants has been pleaded in abatement, the plaintiff shall be at liberty to enter a side bar order to amend the writ of summons and the declaration, by adding the name or names of the person or persons named in

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ceedings may be amended. 15 & 16 Vict. c. 76. s. 38.

such plea in abatement as joint contractors, and to serve the amended writ upon the person or persons so named in such plea in abatement, and to proceed against the original defendant or defendants and the person or persons so named in such plea in abatement: provided, that the date of such amendment shall, as between the person or persons so named in such plea in abatement and the plaintiff, be considered for all purposes as the commencement of the action.

Provision in the case of subsequent proceedings against the persons named in a plea in abatement for non-joinder of defendants. 15 & 16 Vict. c. 76. s. 39.

42. In all cases after such plea in abatement and amendment, if it shall appear upon the trial of the action that the person or persons so named in such plea in abatement was or were jointly liable with the original defendant or defendants, the original defendant or defendants shall be entitled as against the plaintiff to the costs of such plea in abatement and amendment; but if at such trial it shall appear that the original defendant or any of the original defendants is or are liable, but that one or more of the persons named in such plea in abatement is or are not liable as a contracting party or parties, the plaintiff shall nevertheless be entitled to judgment against the other defendant or defendants who shall appear to be liable; and every defendant who is not so liable shall have judgment, and shall be entitled to his costs as against the plaintiff, who shall be allowed the same, together with the costs of the plea in abatement and amendment, as costs in the cause against the original defendant or defendants who shall have so pleaded in abatement the nonjoinder of such person: provided, that any such defendant who shall have so pleaded in abatement shall be at liberty on the trial to adduce evidence of the liability of the defendants named by him in such plea in abatement.

Joinder of claims by husband and wife, with claims in right of husband. 16 & 17 Vict. c. 113. s. 55.

43. In any action brought by a man and his wife for any cause of action arising in respect of the wife, and in respect of which she is necessarily joined as co-plaintiff, it shall be lawful for the husband to add thereto claims in his own right, and separate actions brought in respect of such claims may be consolidated if the court or judge shall think fit: provided, that in the case of the death of either plaintiff such suit, so far only as relates to the causes of action, if any, which do not survive, shall abate.

Joinder of causes of action.

And with respect to joinder of causes of action, be it enacted as follows:

Different causes of action may

44. Causes of action of whatever kind, provided they be by and against the same parties and in the same rights, may be joined in the same suit, but this shall not extend to real actions or to

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actions of replevin or ejectment; and where two or more of the causes of action so joined are local and arise in different counties the venue may be laid in either of such counties, but the court or a judge shall have power to prevent the trial of different causes of action together if such trial would be inexpedient, and in such cases such court or judge may order separate records to be made up and separate trials to be had.

be joined, but separate trials may be ordered. 15 & 16 Vict. c. 76. s. 41.

Questions by consent without pleading.

And for the determination of questions raised by consent of the parties without pleading, be it enacted as follows:

45. Where the parties to an action are agreed as to the question or questions of fact to be decided between them, they may, after writ issued and before judgment, by consent and order of the court or a judge, (which order the said court or judge shall have power to make, upon being satisfied that the parties have a bonâ fide interest in the decision of such question or questions, and that the same is or are fit to be tried,) proceed to the trial of any question or questions of fact without formal pleadings; and such question or questions may be stated for trial in an issue in the form contained in the Schedule (A.) to this Act annexed, marked No. 6, and such issue may be entered for trial and tried accordingly in the same manner as any issue joined in an ordinary action; and the proceeding in such action and issue shall be under and subject to the ordinary control and jurisdiction of the court as in other actions.

Questions of fact may, after writ issued by consent and leave of a judge, be raised without pleadings. 15 & 16 Vict. c. 76. s. 42.

46. The parties may, if they think fit, enter into an agreement in writing, which shall not be subject to any stamp duty, and which shall be embodied in the said or any subsequent order, that upon the finding of the jury in the affirmative or negative of such issue or issues, a sum of money fixed by the parties, or to be ascertained by the jury upon a question inserted in the issue for that purpose, shall be paid by one of such parties to the other of them, either with or without the costs of the action.

Agreement may be entered into for the payment of money and costs according to the result of the issue. 15 & 16 Vict. c. 76. s. 43.

47. Upon the finding of the jury in any such issue, judgment may be entered for such sum as shall be so agreed or ascertained as aforesaid, with or without costs, as the case may be, and execution may issue upon such judgment forthwith, unless otherwise agreed, or unless the court or a judge shall otherwise order for the purpose of giving either party an opportunity for moving to set aside the verdict or for a new trial.

Judgment to be entered according to the agreement, and execution issued forthwith unless stayed. 15 & 16 Vict. c. 76. s. 44.

48. The proceedings upon such issue may be recorded at the instance of either party, and the judgment, whether actually

Proceedings upon issue

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recorded or not, shall have the same effect as any other judgment in a contested action.

may be recorded. 15 & 16 Vict. c. 76. s. 45.

49. The parties to any cause may, by consent in writing, signed by them or their attorneys, as the case may be, leave the decision of any issue of fact to the court, provided that the court or a judge shall, in their or his discretion, think fit to allow such trial; or provided the judges of the superior courts of law at Dublin shall, in pursuance of the power herein-after given to them, make any general rule or order dispensing with such allowance either in all cases or in any particular class or classes of cases to be defined in such rule or order; and such issue of fact may thereupon be tried and determined, and damages assessed, where necessary, in open court, either in term or vacation, by any judge who might otherwise have presided at the trial thereof by jury, either with or without the assistance of any other judge or judges of the same court, or included in the same commission at the assizes; and the verdict of such judge or judges shall be of the same effect as the verdict of a jury, save that it shall not be questioned upon the ground of being against the weight of evidence; and the proceedings upon and after such trial, as to the power of the court or judge, the evidence, and otherwise, shall be the same as in the case of trial by jury.

Judges may by consent, try questions of fact. 17 & 18 Vict. c. 125. s. 1.

Questions of law may be raised after writ issued by consent, &c., without pleading. 15 & 16 Vict. c. 76. s. 46.

50. The parties may, after writ issued, and before judgment by consent and order of the court, or a judge, state any question or questions of law in a special case for the opinion of the court, without any pleadings.

Agreement as to payment of money and costs according to judgment upon special case. 15 & 16 Vict. c. 76. s. 47.

51. The parties may, if they think fit, enter into an agreement in writing, which shall not be subject to any stamp duty, and which shall be embodied in the said or any subsequent order, that upon the judgment of the court being given in the affirmative or negative of the question or questions of law raised by such special case, a sum of money fixed by the parties, or to be ascertained by the court, or in such manner as the court may direct, shall be paid by one of such parties to the other of them, either with or without costs of the action; and the judgment of the court may be entered for such sum as shall be so agreed or ascertained, with or without costs, as the case may be, and execution may issue upon such judgment forthwith unless otherwise agreed or unless stayed by proceedings in error.

Costs to follow the event unless otherwise agreed. 15 & 16 Vict. c. 76. s. 48.

52. In case no agreement shall be entered into as to the costs of such action, the costs shall follow the event, and be recovered by the successful party.

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And with respect to the language and form of pleadings in general, be it enacted as follows:

Pleadings in general.

Fictitious and needless averments not to be made. 15 & 16 Vict. c. 76. s. 49.

53. All statements which need not be proved, such as the statement of time, quantity, quality, and value, where these are immaterial; the statement of losing and finding, and bailment in actions for goods or their value; the statement of acts of trespass having been committed with force and arms, and against the peace of our Lady the Queen; the statement of promises which need not be proved, as promises in indebitatus counts, and mutual promises to perform agreements, and all statements of a like kind, shall be omitted.

Judgment upon demurrer to be given according to the very right of the cause. 15 & 16 Vict. c. 76. s. 50.

54. Either party may object by demurrer to the pleading of the opposite party on the ground that such pleading does not set forth sufficient ground of action, defence, or reply, as the case may be; and where issue is joined on such demurrer the court shall proceed and give judgment according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, omission, defect in or lack of form.

Objections by way of special demurrer. 15 & 16 Vict. c. 76. s. 51.

55. No pleading shall be deemed insufficient for any defect, which, prior to the commencement of the Common Law Procedure Amendment Act (Ireland), 1853, could only be objected to by special demurrer.

Pleadings framed to embarrass may be struck out or amended. 15 & 16 Vict. c. 76. s. 52.

56. If any pleading be so framed as to prejudice, embarrass, or delay the fair trial of the action, the opposite party may apply to the court or a judge to strike out or amend such pleading, and the court or judge shall make such order respecting the same, and also respecting the costs of the application, as such court or judge shall think fit.

Four days notice to declare, reply, or rejoin. 15 & 16 Vict. c. 76. s. 53.

57. Rules to declare, or declare peremptorily, and rules to reply and plead subsequent pleadings shall not be necessary, and instead thereof a notice shall be served requiring the opposite party to declare, reply, rejoin, or otherwise, as the case may be, within four days, otherwise judgment; such notice to be delivered separately or endorsed on any pleading to which the opposite party is required to reply, rejoin, or otherwise plead, as the case may be.

Pleadings to be dated and entered as of time of pleading, unless order to the contrary.

58. Every declaration and other pleading shall be intituled of the proper court, and of the day of the month and the year when the same was pleaded, and shall bear no other time or date, and every declaration and other pleading shall also be entered on the record made up for trial and on the judgment roll under the date of the

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15 & 16 Vict. c. 76. s. 54.

day of the month and year when the same respectively took place, and without reference to any other time or date, unless otherwise specially ordered by the court or a judge.

Profert and oyer not necessary. 15 & 16 Vict. c. 76. s. 55.

59. It shall not be necessary to make profert of any deed or other document mentioned or relied on in any pleading; and if profert shall be made it shall not entitle the opposite party to crave oyer of or set out upon oyer such deed or other document.

Document may be set forth, and be considered a part of the pleading in which it is set forth. 15 & 16 Vict. c. 76. s. 56.

60. A party pleading in answer to any pleading in which any document is mentioned or referred to shall be at liberty to set out the whole or such part thereof as may be material, and the matter so set out shall be deemed and taken to be part of the pleading in which it is set out.

Declaration for libel or slander. 15 & 16 Vict. c. 76. s. 61.

61. In actions of libel and slander the plaintiff shall be at liberty to aver that the words or matter complained of were used in a defamatory sense, specifying such defamatory sense without any prefatory averment to show how such words or matter were used in that sense, and such averment shall be put in issue by the denial of the alleged libel or slander; and where the words or matter set forth, with or without the alleged meaning, show a cause of action the declaration shall be sufficient.

Performance of conditions precedent may be averred generally. 15 & 16 Vict. c. 76. s. 57.

62. It shall be lawful for the plaintiff or defendant in any action to aver performance of conditions precedent generally, and the opposite party shall not deny such averment generally, but shall specify in his pleading the condition or conditions precedent the performance of which he intends to contest.

The process or adjudication of an inferior jurisdiction may be pleaded generally. 16 & 17 Vict. c. 113. s. 67.

63. In pleading any process, decree, judgment, or adjudication of a court or officer of special or inferior jurisdiction, it shall not be necessary for the party pleading or relying on such process, decree, judgment, or adjudication to state in his pleading the facts or matters conferring jurisdiction on such court or officer to entertain the question, or issue such process, or make such decree, judgment, or adjudication, but the same respectively may be stated in such pleading to have been duly entertained or made by such court or officer; and if such statement be controverted the party so pleading or relying on such process, decree, judgment, or adjudication shall on the trial establish by proof the facts and matters necessary to confer jurisdiction on such court or officer to entertain the question, or issue the process, or make the adjudication so pleaded as aforesaid.

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Declaration.

And with regard to the time and manner of declaring, and to the venue in personal actions, and to particulars of demand, be it enacted as follows:

Plaintiff to declare within a year. 15 & 16 Vict. c. 76. s. 58.

64. A plaintiff shall be deemed out of court unless he declare within one year after the writ of summons is returnable.

Actions against justices of the peace, mayors, &c. to be laid in the county in which the cause of action has arisen. 21 Jac. 1. (Eng.) c. 12. s. 5. 42 G. 3. c. 85. s. 6.

65. All actions against justices of the peace for anything done by them in execution of or by reason of their office, and all actions of trespass or on the case brought against mayors or bailiffs of cities or towns corporate, constables, officers of police, and churchwardens, for any act done by them in execution of or by reason of their office, or against any person or persons acting in their aid or by their command, or against any person or persons holding or exercising or being employed in any public employment, or any office, station, or capacity, either civil or military, either in or out of Ireland, and who, under and by virtue and in pursuance of any Act or Acts of Parliament, may have or may hereafter have, by virtue of any such employment, office, station, or capacity, power or authority to commit persons to safe custody for any act done by them in the execution of or by reason of their office, shall be laid and tried in the county where the cause of action is alleged to have arisen, and not in any other county; and if upon the trial of any such action the plaintiff therein shall not prove that the fact or cause of action was done or arose within the county laid as venue in the margin of the declaration the jury shall find the defendant not guilty, without having regard to any evidence given by the plaintiff relative to the fact or cause in respect of which the action shall be brought: provided always, that when any such action shall be brought in any of the said superior courts against any such person holding or exercising any such public employment or office, station, or capacity as last aforesaid, for or upon any act, matter, or thing done out of the jurisdiction of the said courts, it shall be lawful for the plaintiff to lay the venue in the county or county of the city of Dublin, or in any county where the defendant shall then reside.

Court or judge may direct such actions to be tried elsewhere. 3 & 4 Vict. c. 105. s. 47.

66. In all actions in which the venue is local, the court in which such action shall be pending or a judge may, on the application of either party, order the issue to be tried or writ of inquiry to be executed in any other county or place than that in which the venue is laid; and for that purpose any such court or judge may order a suggestion to be entered on the record that the trial may be more conveniently or properly had or writ of inquiry executed in the county or place where the same is ordered to take place: provided also, that nothing herein contained shall be deemed to affect the

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general jurisdiction of the court to order the venue to be changed in such actions upon other grounds.

Court or judge may, in transitory actions, order venue to be changed.

67. In all actions in which the venue is transitory it shall be lawful for the court or a judge to order the venue to be changed to any other county in which the trial can be more conveniently or properly had, on special grounds only, and not merely because the cause of action arose in any particular place or county, and for that purpose to direct that a suggestion be entered upon the record that the trial may be more conveniently or properly had in the county or place where the same is ordered to take place.

Forms of commencement, &c. of declaration. 15 & 16 Vict. c. 76. s. 59.

68. Every declaration shall commence as follows, or to the like effect:

[Venue.] "*A.B.*, by *E.F.*, his attorney [*or* in person, *as the case "may be*,] sues *C.D.* for [*here state the cause of action*];"

And shall conclude as follows, or to the like effect:

"And the plaintiff claims £ [*or if the action is "brought to recover specific goods*, the plaintiff claims a return "of the said goods or their value, and £ for their "detention]."

And the name of a county shall in all cases be stated in the margin of such declaration, and shall be taken to be the venue intended by the plaintiff, and no venue shall be stated in the body of the declaration or in any subsequent pleading: provided, that in cases in which local description is now required, such local description shall be given.

Several counts on the same cause of action not to be allowed.

69. Several counts on the same cause of action shall not be allowed, and any count or counts used in violation of this provision may, on the application of the party objecting, within a reasonable time, or before an order made for time to plead, be struck out, or amended by the court or a judge, on such terms as to costs or otherwise as such court or judge may think fit: provided always, that on an application to the court or a judge to strike out any count on the ground of such count being in violation of this provision, the court or judge may allow such counts on the same cause of action as may appear to such court or judge to be proper for determining the real question in controversy between the parties on its merits, subject to such terms as to costs and otherwise as the court or judge may think fit.

Commencement of declaration after plea of non-joinder.

70. In all cases in which, after a plea in abatement of the nonjoinder of another person as defendant, the plaintiff shall, without having proceeded to trial on an issue thereon, commence another action against the defendant or defendants in the action in which

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such plea in abatement shall have been pleaded, and the person or persons named in such plea in abatement as joint contractors, or shall amend by adding the omitted defendant or defendants, the commencement of the declaration shall be in the following form, or to the like effect:

15 & 16 Vict. c. 76. s. 60.

[Venue.] "*A.B.*, by *E.F.*, his attorney [*or* in his own proper "person, *&c.*], sues *C.D.* and *G.H.*, which said *C.D.* has here- "tofore pleaded in abatement the nonjoinder of the said *G.H.* "for," *&c.*

Further particulars.

16 & 17 Vict. c. 113. s. 46.

71. The court or a judge may, in any case, by any order made on motion, direct a further or more detailed particular of the items of demand or credits referred to in any declaration, or of any payments or set-off referred to in any plea or subsequent pleading, to be furnished; and in any action for any injury to person or property, the court or a judge may order plans of the place in which the injury is alleged to have been committed, or as to which any justification is pleaded, to be given or exchanged between the parties; and in case any order shall be made for any of the purposes aforesaid, the defendant shall, unless the court or judge shall otherwise direct, have the same time for pleading after compliance with such order as he had at the time when notice of such application was given.

Pleadings.

And as to pleas and subsequent pleadings, be it enacted as follows:

Rules to plead and demand of plea not necessary.

15 & 16 Vict. c. 76. s. 62.

72. No rule to plead or demand of plea shall be necessary, and the notice to plead endorsed on the declaration or delivered separately shall be sufficient.

Time for pleading where defendant is within jurisdiction, to be eight days.

15 & 16 Vict. c. 76. s. 63.

73. In cases where the defendant is within the jurisdiction, the time for pleading in bar, unless extended by the court or a judge, shall be eight days; and a notice requiring the defendant to plead in eight days, otherwise judgment may, whether the declaration be delivered or filed, be endorsed upon the declaration or delivered separately.

Express colour or special traverses not necessary.

15 & 16 Vict. c. 76. ss. 64, 65.

74. Express colour or special traverses shall not be necessary in any pleading.

Formal commencement and prayer of judgment unnecessary.

15 & 16 Vict. c. 76. s. 66.

75. In a plea or subsequent pleading it shall not be necessary to use any allegation of actionem non, or actionem ulterius non, or to the like effect, or any prayer of judgment, nor shall it be necessary in any replication or subsequent pleading to use any allegation of precludi non, or to the like effect, or any prayer of judgment.

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Commencement of plea. 15 & 16 Vict. c. 76. s. 67.

76. No formal defence shall be required in a plea or avowry or cognizance, and it shall commence as follows, or to the like effect:

"The defendant, by , his attorney, [*or* in person, "*or as the case may be*], says that [*here state first defence;*]"

And it shall not be necessary to state in a second or other plea or avowry or cognizance, that it is pleaded by leave of the court or a judge, or according to the form of the statute, or to that effect; but every such plea, avowry, or cognizance shall be written in a separate paragraph, and numbered, and shall commence as follows, or to the like effect:

"And for a second [*&c.*] plea the defendant says, that [*here state second, &c. defence;*]"

or if pleaded to part only, then as follows, or to the like effect:

"And for a second [*&c.*] plea to [*stating to what it is pleaded*], "the defendant says, that [*&c.*];"

and no formal conclusion shall be necessary to any plea, avowry, cognizance, or subsequent pleading.

Character of assignees of bankrupt, &c. to be taken as admitted, if not denied.

77. In all actions by and against assignees of a bankrupt or insolvent, or executors or administrators, or persons authorized by Act of Parliament to sue or be sued as nominal parties, the character in which the plaintiff or defendant is stated on the record to sue or be sued shall not in any case be considered as in issue, unless specially denied.

Effect of plea of non assumpsit in actions on simple contract.

78. In all actions on simple contract, except as herein-after excepted, the plea of "non assumpsit," or a plea traversing the contract or agreement alleged in the declaration, shall operate only as a denial in fact of the express contract, promise, or agreement alleged, or of the matters of fact from which the contract, promise, or agreement alleged may be implied by law; as for instance:

In an action on a warranty such pleas shall operate as a denial of the fact of the sale and warranty having been given, but not of the breach; and in an action on a policy of insurance, of the subscription to the alleged policy by the defendant, but not of the interest, of the commencement of the risk, of the loss, or of the alleged compliance with warranties:

In actions against carriers, and other bailees for not delivering or not keeping goods safe, or not returning them on request, and in actions against agents for not accounting, such pleas

shall operate as a denial of any express or implied contract to the effect alleged in the declaration, but not of the breach:

To causes of action to which the plea of "never was indebted" is applicable, as provided in schedule (B.) 35. to this Act annexed, and to those of a like nature, the plea of "non assumpsit" shall be inadmissible, and the plea of "never was indebted" shall operate as a denial of those matters of fact from which the liability of the defendant arises; as, for instance, in actions for goods bargained and sold, or sold and delivered, the plea shall operate as a denial of the bargain and sale, or sale and delivery, in point of fact; in the like action for money had and received it shall operate as a denial both of the receipt of money and the existence of those facts which make such receipt by the defendant a receipt to the use of the plaintiff.

Pleas of non assumpsit and never indebted not to be allowed in actions on bills of exchange and promissory notes.

79. In all actions upon bills of exchange and promissory notes the pleas of "non assumpsit" and "never indebted" shall be inadmissible, and every plea in denial must traverse some matter of fact; as, for instance, the drawing, or making, or endorsing, or accepting, or presenting, or notice of dishonour of the bill or note.

Effect of plea of non est factum.

80. In actions on specialities and covenants the plea of "non est factum" shall operate as a denial of the execution of the deed in point of fact only, and all other defences shall be specially pleaded, including matters which make the deed absolutely void as well as those which make it voidable.

Plea of nil debet not to be allowed.

81. The plea of "nil debet" shall not be allowed in any action.

Defence by way of confession and avoidance to be specially pleaded in actions upon contract.

82. In actions on contract all matters in confession and avoidance, including not only those by way of discharge but those which show the transaction to be either void or voidable in point of law, on the ground of fraud or otherwise; as, for instance, infancy, coverture, release, payment, performance, illegality of consideration, either by statute or common law, drawing, endorsing, accepting, &c., bills or notes by way of accommodation, set-off, mutual credit, unseaworthiness, misrepresentation, concealment, deviation, and other defences of the like character, shall be specially pleaded.

Payment not to be given in evidence in reduction of amount without plea.

83. Payment, whether before action brought, or when made into court, shall not in any case be allowed to be given in evidence in reduction of damages or debt without being pleaded.

Effect of plea of non detinet.

84. In actions for detaining goods, the plea of "non detinet" shall operate as a denial of the detention of the goods by the

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defendant, but not of the plaintiff's property therein, and no other defence than such denial shall be admissible under that plea.

Effects of plea of not guilty in actions of wrong.

85. In actions of tort the plea of "not guilty" shall operate as a denial only of the breach of duty or wrongful act alleged to have been committed by the defendant, and not of the facts stated in the inducement, and no other defence than such denial shall be admissible under that plea; all other pleas in denial shall take issue on some particular matter of fact alleged in the declaration; as for instance:

In an action for a nuisance to the occupation of a house by carrying on an offensive trade, the plea of "not guilty" shall operate as a denial only that the defendant carried on the alleged trade in such a way as to be a nuisance to the occupation of the house, and shall not operate as a denial of the plaintiff's occupation of the house:

In an action for obstructing a right of way, such plea shall operate as a denial of the obstruction only, and not of the plaintiff's right of way:

In an action for slander of the plaintiff in his office, profession, or trade, the plea of "not guilty" shall operate in denial of speaking the words, of speaking them maliciously, and in the defamatory sense imputed, and with reference to the plaintiff's office, profession, or trade, but it shall not operate as a denial of the fact of the plaintiff holding the office or being of the profession or trade alleged:

In actions for an escape, the plea of "not guilty" shall operate as a denial of the neglect or default of the sheriff or his officers, but not of the debt, judgment, or preliminary proceedings:

In actions against a carrier, the plea of "not guilty" shall operate as a denial of the loss or damage, but not of the receipt of the goods by the defendant as a carrier for hire, or of the purpose for which they were received.

General issue may be pleaded in certain actions. 21 Jac. 1. (Eng.) c. 12. s. 5.

86. In all such actions as in the sixty-fifth section of this Act mentioned, it shall be lawful for the defendant to plead the general issue therein, and to give any special matter of defence, excuse, or jurisdiction in evidence under such plea at the trial of such action.

In actions of wrong, defences in confession and avoidance to be specially pleaded.

87. Save as herein otherwise provided, all matters in confession or avoidance shall be specially pleaded in actions of tort in like manner as in actions on contract.

Effect of plea of not

88. In actions for trespass to land, the plea of "not guilty" shall operate as a denial that the defendant committed the trespass

alleged in the place mentioned, but not as a denial of the plaintiff's possession or right of possession of that place, which, if intended to be denied, must be traversed specially.

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guilty in actions of trespass.

89. In actions for taking, damaging, or converting the plaintiff's goods, the plea of "not guilty" shall operate as a denial of the defendant having committed the wrong alleged, by taking, damaging, or converting the goods mentioned, but not of the plaintiff's property therein.

Effect of plea of not guilty in action for taking goods.

90. In any case in which there are mutual debts between the plaintiff and the defendant, or if either party sue or be sued as executor or administrator where there are mutual debts between the testator and intestate and either party, whether such debts have accrued before or after action brought, one debt may be set off against the other, and such matter may be pleaded, according to circumstances, in bar of the action, or the further maintenance thereof, or so much of the debt as it covers, and the account upon which it became due shall be alleged as in a declaration for the same debt.

Set off.
16 & 17 Vict. c. 113. s. 40.

91. Any defence arising after the commencement of any action shall be pleaded according to the fact, without any formal commencement or conclusion; and any plea which does not state whether the defence therein set up arose before or after action shall be deemed a plea of matter arising before action.

Plea of matter subsequent to action.
15 & 16 Vict. c. 76. s. 68.

92. In cases in which a plea Puis darrein continuance was before the commencement of the Common Law Procedure Amendment Act (Ireland), 1853, pleadable in Banc or at Nisi Prius, the same defence may be pleaded with an allegation that the matter arose after the last pleading; and such plea may, when necessary, be pleaded at Nisi Prius between the first of August and twentieth of October, but no such plea shall be allowed unless accompanied by an affidavit that the matter thereof arose within eight days next before the pleading of such plea, or unless the court or a judge shall otherwise order.

Plea Puis darrein continuance, when and how to be pleaded.
15 & 16 Vict. c. 76. s. 69.

93. It shall be lawful for the defendant in all actions (except actions for assault and battery, false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversation or debauching of the plaintiff's daughter or servant), and by leave of the court or a judge, and upon such terms as they or he may think fit, for the defendant in such excepted actions, or for one or more of several defendants in any action, to pay into court a sum of money by way of compensation or amends: provided that nothing

Payment into court.
15 & 16 Vict. c. 76. s. 70.

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herein contained shall be taken to affect the provisions of a certain Act of Parliament passed in the session of Parliament holden in the sixth and seventh years of the reign of Her present Majesty, intituled "An Act to amend the law respecting defamatory words "and libel."

Payment into court in actions on money bonds, and for detainer. 23 & 24 Vict. c. 126. s. 25.

94. In any action brought upon a bond which has a condition or defeazance to make void the same upon payment of a lesser sum at a day or place certain, with a penalty, and in any action for detaining the goods of the plaintiff, it shall be lawful for the defendant, by leave of the court or a judge, and upon such terms as they or he shall think fit, to pay into court a sum of money to answer the claim of the plaintiff in respect of such bond in the former case, and in the latter case to the value of the goods alleged to be detained.

Payment into court, how pleaded. 15 & 16 Vict. c. 76. s. 71.

95. When money is paid into court such payment shall be pleaded in all cases as near as may be in the following form, mutatis mutandis:

"The defendant by his attorney [*or* in "person, *&c.*] [*if pleaded to part, say*, as to £ "parcel of the money claimed], brings into court the sum of "£ and says that the said sum is enough to "satisfy the claim of the plaintiff in respect of the matter "herein pleaded to."

Payment of money into court. 16 & 17 Vict. c. 113. ss. 75, 76.

96. No order of the court or a judge to pay money into court shall be necessary, except in the cases herein-before specially provided, but such payment shall be made by lodging the money in the Bank of Ireland on behalf of the defendant, who shall make such lodgment with the privity of the master of the court, and to the credit of the cause; and such master, on the certificate of such lodgment being delivered to him, shall give a receipt for the amount in the margin of the plea; and the master shall, on demand by the plaintiff, draw upon the Bank of Ireland in favour of the plaintiff or his attorney, upon a written authority from the plaintiff, for the sum so lodged by the defendant.

Proceeding by plaintiff after payment into court. 15 & 16 Vict. c. 76. s. 73.

97. The plaintiff, after the delivery of a plea of payment of money into court, shall be at liberty to reply to the same by accepting the sum so paid into court in full satisfaction and discharge of the cause of action in respect of which it has been paid in, and he shall be at liberty in that case to tax his costs of suit, and, in case of nonpayment thereof within forty-eight hours, to sign judgment for his costs of suit so taxed; or the plaintiff may

reply that the sum paid into court is not enough to satisfy the claim of the plaintiff in respect of the matter to which the plea is pleaded; and in the event of an issue thereon being found for the defendant, the defendant shall be entitled to judgment and his costs of suit.

Pleas to actions partaking both of breach of contract and wrong. 15 & 16 Vict. c. 76. s. 74.

98. Whereas certain causes of action may be considered to partake of the character both of breaches of contract and of wrongs, and doubts may arise as to the form of pleas in such actions, and it is expedient to preclude such doubts: Any plea which shall be good in substance shall not be objectionable on the ground of its treating the declaration either as framed for a breach of contract or for a wrong.

Payment, set-off, and other pleadings which can be construed distributively shall be so construed. 15 & 16 Vict. c. 76. s. 75.

99. Pleas of payment and set-off, and all other pleadings capable of being construed distributively, shall be taken distributively, and if issue is taken thereon, and so much thereof as shall be sufficient answer to part of the causes of action proved shall be found true by the jury, a verdict shall pass for the defendant in respect of so much of the causes of action as shall be answered, and for the plaintiff in respect of so much of the causes of action as shall not be so answered.

Traverse of the declaration. 15 & 16 Vict. c. 76. s. 76.

100. A defendant may either traverse generally such of the facts contained in the declaration as might have been denied by one plea, or may select and traverse separately any material allegation in the declaration, although it might have been included in a general traverse.

Traverse of plea or subsequent pleading of defendant. 15 & 16 Vict. c. 76. s. 77.

101. A plaintiff shall be at liberty to traverse the whole of any plea or subsequent pleading of the defendant by a general denial, or, admitting some part or parts thereof, to deny all the rest, or to deny any one or more allegations.

Traverse of replication or subsequent pleading of the plaintiff. 15 & 16 Vict. c. 76. s. 78.

102. A defendant shall be at liberty in like manner to deny the whole or part of a replication or subsequent pleading of the plaintiff.

Equitable defence may be pleaded. 17 & 18 Vict. c. 125. s. 83.

103. It shall be lawful for the defendant in any personal action, and for the plaintiff in any action of replevin in any of the said superior courts, in which if judgment were obtained he would be entitled to relief against such judgment on equitable grounds, to plead the facts which entitle him to such relief by way of defence, and the said courts are hereby empowered to receive such defence by way of plea, provided that such plea shall begin with the words "for defence on equitable grounds," or words to the like effect.

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Equitable defence after judgment. 17 & 18 Vict. c. 125. s. 84.

104. Any such matter which, if it arose before or during the time for pleading, would be an answer to the action by way of plea, may, if it arise after the lapse of the period during which it could be pleaded, be set up by way of audita querela.

Equitable replication. 17 & 18 Vict. c. 125. s. 85.

105. The plaintiff may reply, in answer to any plea of the defendant, facts which avoid such plea upon equitable grounds, provided that such replication shall begin with the words "for replication on equitable grounds," or words to the like effect.

Court or judge may strike out equitable plea or replication. 17 & 18 Vict. c. 125. s. 86.

106. Provided always, that in case it shall appear to the court or a judge that any such equitable plea or equitable replication cannot be dealt with by a court of law so as to do justice between the parties, it shall be lawful for such court or judge to order the same to be struck out, on such terms as to costs and otherwise, as to such court or judge may seem reasonable.

Actions on lost instruments. 17 & 18 Vict. c. 125. s. 87.

107. In case of any action founded on a bill of exchange or other negotiable instrument, it shall be lawful for the court or a judge to order that the loss of such instrument shall not be set up, provided an indemnity is given to the satisfaction of the court, judge, or master against the claims of any other person upon such negotiable instrument.

Joinder of issue. 15 & 16 Vict. c. 76. s. 79.

108. Either party may plead, in answer to the plea or subsequent pleading of his adversary, that he joins issue thereon, which joinder of issue may be as follows, or to the like effect:

"The plaintiff joins issue upon the defendant's first [*&c. specifying what or what part*] plea:"

"The defendant joins issue upon the plaintiff's replication to the first [*&c. specifying what*] plea:"

And such form of joinder of issue shall be deemed to be a denial of the substance of the plea or other subsequent pleading, and an issue thereon; and in all cases where the plaintiff's pleading is in denial of the pleading of the defendant, or some part of it, the plaintiff may add a joinder of issue for the defendant.

As to pleading and demurring together. 15 & 16 Vict. c. 76. s. 80.

109. Either party may, by leave of the court or a judge, plead and demur to the same pleading at the same time, upon an affidavit by such party or his attorney, if required by the court or judge, to the effect that he is advised and believes that he has just ground to traverse the several matters proposed to be traversed by him, and that the several matters sought to be pleaded as aforesaid by way of confession and avoidance are respectively true in substance and in fact, and that he is further advised and believes that the objections raised by such demurrer are good and valid objections in law, and

it shall be in the discretion of the court or a judge to direct which issue shall be first disposed of. A.D. 1869.

110. The plaintiff in any action may, by leave of the court or a judge, plead in answer to the plea or the subsequent pleading of the defendant as many several matters as he shall think necessary to sustain his action; and the defendant in any action may, by leave of the court or a judge, plead in answer to the declaration or other subsequent pleading of the plaintiff as many several matters as he shall think necessary for his defence, upon an affidavit of the party making such application, or his attorney, if required by the court or judge, to the effect that he is advised and believes that he has just ground to traverse the several matters proposed to be traversed by him, and that the several matters sought to be pleaded as aforesaid by way of confession and avoidance are respectively true in substance and in fact: provided that the costs of any issue either in fact or law shall follow the finding or judgment upon such issue, and be adjudged to the successful party, whatever may be the result of the other issue or issues. Several matters may be pleaded at any stage of the pleadings. 15 & 16 Vict. c. 76. s. 81.

111. All objections to the pleading of several pleas, replications, or subsequent pleadings, or several avowries or cognizances, on the ground that they are founded on the same ground of answer or defence, shall be heard upon the application to plead several matters. Objections to pleadings to be heard on application to plead several matters. 15 & 16 Vict. c. 76. s. 83.

112. The following pleas, or any two or more of them, may be pleaded together as of course, without leave of the court or a judge; that is to say, a plea denying any contract or debt alleged in the declaration; a plea of tender as to part; a plea of the statute of limitations, set-off, bankruptcy of the defendant, discharge under an Insolvent Act, plene administravit, plene administravit præter, infancy, coverture, payment, accord and satisfaction, release, not guilty, a denial that the property an injury to which is complained of is the plaintiff's, leave and licence, son assault demesne, and any other pleas which the judges of the said superior courts, or any seven or more of them, of whom the chief judges of the said courts shall be three, shall by any rule or order to be from time to time by them made in term or vacation order or direct. Certain pleas may be pleaded together without leave. 15 & 16 Vict. c. 76. s. 84.

113. Except in the cases herein specifically provided for, if either party plead several pleas, replications, avowries, cognizances, or other pleadings without leave of the court or a judge, the opposite party shall be at liberty to sign judgment: provided that such judgment may be set aside by the court or a judge upon an affidavit For pleading several matters without leave, judgment may be signed. 15 & 16 Vict. c. 76. s. 86.

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of merits, and upon such terms as to costs and otherwise as they or he may think fit.

One new assignment only allowed in respect of the same cause of action. 15 & 16 Vict. c. 76. s. 87.

114. One new assignment only shall be pleaded to any number of pleas to the same cause of action; and such new assignment shall be consistent with and confined by the particulars delivered in the action, if any, and shall state that the plaintiff proceeds for causes of action different from all those which the pleas profess to justify, or for an excess over and above what all the defences set up in such pleas justify, or both.

Pleas not to be repeated. 15 & 16 Vict. c. 76. s. 88.

115. No plea which has already been pleaded to the declaration shall be pleaded to such new assignment, except a plea in denial, unless by leave of the court or a judge, and such leave shall only be granted upon satisfactory proof that the repetition of such plea is essential to a trial on the merits.

Form of demurrer and joinder in demurrer. 15 & 16 Vict. c. 76. s. 89.

116. The form of a demurrer shall be as follows, or to the like effect:

"The defendant, by his attorney [*or* in person, *&c.*, *or* plaintiff,]
"says, that the declaration [*or* plea, *&c.*] is bad in substance."

And in the margin thereof some substantial matter of law intended to be argued shall be stated, and if any demurrer shall be delivered without such statement, or with a frivolous statement, it may be set aside by the court or judge, and leave may be given to sign judgment as for want of a plea; and the form of a joinder in demurrer shall be as follows, or to the like effect:

"The plaintiff [*or* defendant] says that the declaration [*or* plea,
"*&c.*] is good in substance."

Time for pleading after amendment. 15 & 16 Vict. c. 76. s. 90.

117. Where an amendment of any pleading is allowed no new notice to plead thereto shall be necessary, but the opposite party shall be bound to plead to the amended pleading within the time specified in the original notice to plead, or within two days after amendment, whichever shall last expire, unless otherwise ordered by the court or judge; and in case the amended pleading has been pleaded to before amendment, and is not pleaded to de novo within two days after amendment, or within such other time as the court or a judge shall allow, the pleadings originally pleaded thereto shall stand and be considered as pleaded in answer to such amended pleading.

Pleadings subsequent to the declaration not to be filed.

118. No demurrer, nor any pleading subsequent to the declaration, shall in any case, except by special order of the court, be filed with any officer of the court, but the same shall, unless otherwise provided by general orders, be delivered between the parties:

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provided always, that before delivering any demurrer or other such pleading as aforesaid, the attorney or person delivering the same shall bring or cause the same to be brought to the office of the clerk of the writs, impressed with the stamp now or hereafter by law required to be impressed upon such demurrer or other such pleading as aforesaid, and thereupon the clerk of the writs shall impress such demurrer or other pleading with the seal of the said superior courts of common law; and no delivery of any demurrer or other such pleading shall be of any effect unless so stamped and sealed as aforesaid.

Examples of pleading.

And whereas it is desirable that examples should be given of the statements of causes of action and of forms of pleading: Be it enacted as follows:

Forms in schedule may be adopted. 15 & 16 Vict. c. 76. s. 91.

119. The forms contained in the schedule (B.) to this Act annexed shall be sufficient, and those and the like forms may be used, with such modifications as may be necessary to meet the facts of the case, but nothing herein contained shall render it erroneous or irregular to depart from the letter of such forms so long as the substance is expressed without prolixity.

Judgment by default, and ascertaining amount to be recovered.

And with respect to judgment by default, and the mode of ascertaining the amount to be recovered thereupon, be it enacted as follows:

Rule to compute unnecessary. 15 & 16 Vict. c. 76. ss. 92, 93.

120. No rule to compute shall be necessary or used, but in actions where the plaintiff seeks to recover a debt or liquidated demand in money judgment by default shall be final.

Inquiry of damages may be directed to take place before the master. 16 & 17 Vict. c. 113. s. 98.

121. In actions in which it shall appear to the court or a judge that the amount of damages sought to be recovered by the plaintiff is substantially a matter of calculation, it shall not be necessary to issue a writ of inquiry, but the court or a judge may direct that the amount for which final judgment is to be signed shall be ascertained by the master of the said court; and the attendance of witnesses and the production of documents before such master may be compelled by subpœna, in the same manner as before a jury upon a writ of inquiry, and it shall be lawful for such master to adjourn the inquiry from time to time as occasion may require: provided always, that in case the said master shall upon any such reference think it proper to hear any fact controverted on the reference tried by a jury, in such case the said master may sign a requisition to that effect intituled in the cause, and direct the same to be delivered to the sheriff of the county of the city of Dublin two days before the time when such jury shall be required,

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and the jurors shall be summoned and taken from the list of persons liable to serve as jurors in the county of the city of Dublin, and the sheriff shall cause so many of the said jurors as in his opinion he shall deem sufficient to be summoned, and such persons shall attend, and either party shall be entitled to his lawful challenge against all or any of the said jurors; and a jury of twelve shall be returned to try such fact or facts as shall seem doubtful to such master, who shall proceed to make his report on the verdict of such jury as he shall think fit; and such jury shall be sworn and paid as a common jury at Nisi Prius, and the master shall endorse upon the rule or order for referring the amount of damages to him the amount found by him, and shall deliver the rule or order with such endorsement to the plaintiff, and such and the like proceedings may thereupon be had as to taxation of costs, signing judgment, and otherwise, as upon the finding of a jury upon a writ of inquiry.

Ordinary writ of inquiry in other cases. 16 & 17 Vict. c. 76. s. 100.

122. In actions in which the plaintiff's demand is not for a debt or liquidated sum in money, and where the amount of damages sought to be recovered cannot be calculated as aforesaid, it shall be lawful for the plaintiff to issue a writ of inquiry to the sheriff of the proper county, or other person thereunto lawfully authorized, and such inquiry shall be holden at the chief town in the county, or such other place and at such time as shall be agreed on between the sheriff and the party delivering the writ to him; and the said writ of inquiry may be made returnable and be returned on any day certain in term or in vacation to be named in such writ, and upon the return thereof, and without any rule for judgment thereon, the costs may be taxed, and judgment signed and execution issued forthwith, unless the sheriff or other officer before whom such writ shall be executed, shall certify under his hand upon such writ that judgment ought not to be signed until the defendant or plaintiff shall have had an opportunity to apply to the court or a judge to set aside the execution of such writ of inquiry, or unless the court or judge shall think fit to order the judgment to be stayed until a day to be named in such order: provided that where a writ of inquiry shall have been executed before a judge the proceedings from the finding to issuing execution shall be the same as in the case of ordinary trials at Nisi Prius.

Inquiries may be directed to take place before master of the court.

123. It shall be lawful for the court or a judge, instead of a writ of inquiry to the sheriff to ascertain the amount of damages, to direct that the amount for which final judgment shall be marked shall be ascertained by the master of the court, and thereupon such damages shall be ascertained by the master in like manner as such

damages are ascertained under a writ of inquiry by the sheriff; and for such purpose it shall be the duty of the sheriff of the county of the city of Dublin to summon jurors to attend before the said masters, who shall have the like jurisdiction and authority as have been heretofore exercised by sheriffs in holding such inquiries: provided always, that whenever there is any such trial by jury twelve jurymen shall be empannelled and sworn to give their verdict according to the evidence, and the verdict of the said jurymen shall, if unanimous, be sufficient; and it shall be lawful for the master to adjourn such inquiry from time to time as occasion may require; and the master shall endorse on the rule or order of reference the finding of the said jury, and shall deliver the same to the plaintiff, and such and the like proceedings may thereupon be had as to taxation of costs, signing judgment, and otherwise, as upon a finding of a jury upon a writ of inquiry to the sheriff: provided always, that in all cases of writs of inquiry it shall be lawful for the court or a judge to order that they shall be executed before a judge sitting at Nisi Prius for the trial of causes, either in the consolidated Nisi Prius Court, or at the after sittings or assizes, as such court or judge shall in their or his discretion direct, and for that purpose to enter a suggestion upon the record whenever the trial is ordered to take place in a county other than that in which the venue is laid.

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16 & 17 Vict. c. 113. s. 101. 19 & 20 Vict. c. 102. s. 99.

Inquiries may be directed to take place before a judge.

Discovery.

And with reference to discovery, be it enacted as follows:

124. Upon motions founded upon affidavits, it shall be lawful for either party, with leave of the court or a judge, to make affidavits in answer to the affidavits of the opposite party, upon any new matter arising out of such affidavits, subject to all such general orders as shall hereafter be made respecting such affidavits.

Affidavits on new matter. 17 & 18 Vict. c. 125. s. 45.

125. Upon the hearing of any motion it shall be lawful for the court or judge, at their or his discretion, and upon such terms as they or he shall think reasonable, from time to time to order such documents as they or he may think fit to be produced, and such witnesses as they or he may think necessary to appear, and be examined vivâ voce either before such court or judge or before the master, and upon hearing such evidence, or reading the report of such master, to make such rule or order as may be just.

Power to court or judge to direct oral examination of witnesses. 17 & 18 Vict. c. 125. s. 46.

126. The court or judge may, by such rule or order or any subsequent rule or order, command the attendance of the witnesses named therein for the purpose of being examined, or the production of any writings or other documents to be mentioned in such rule or order; and such rule or order shall be proceeded upon in the same

Proceedings before and upon such examination. 17 & 18 Vict. c. 125. s. 47.

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manner, and shall have the same force and effect as a rule of the court under an Act passed in the session of Parliament holden in the third and fourth years of the reign of Her present Majesty, chapter one hundred and five, intituled "An Act for abolishing "arrest on mesne process in civil actions except in certain cases "for extending the remedies of creditors against the property of "debtors; and for the further amendment of the law, and the "better advancement of justice in Ireland;" and it shall be lawful for the court, or judge, or master to adjourn the examination from time to time as occasion may require; and the proceedings upon such examination shall be conducted and the depositions taken down as nearly as may be in the mode now in use with respect to the vivâ voce examinations of witnesses under the last-mentioned Act.

3 & 4 Vict. c. 105.

Examination of person who refuses to make an affidavit.

17 & 18 Vict. c. 125. s. 48.

127. Any party to any civil action or other civil proceeding in any of the superior courts requiring the affidavit of a person who refuses to make an affidavit, may apply for an order requiring such person to appear and be examined upon oath before a judge or master, to whom it may be most convenient to refer such examination, as to the matters concerning which he has refused to make an affidavit; and the court or a judge may, if they or he think fit, make such order for the attendance of such person before the person therein appointed to take such examination, for the purpose of being examined as aforesaid, and for the production of any writings or documents to be mentioned in such order, and may therein impose such terms as to such examination, and the costs of the application and proceedings thereon, as they or he shall think just.

Proceedings upon order for examination.

17 & 18 Vict. c. 125. s. 49.

128. Such order shall be proceeded upon in like manner as an order made under the herein-before mentioned Act passed in the session of Parliament holden in the third and fourth years of the reign of Her present Majesty, and the examination thereon shall be conducted, and the depositions taken down and returned, as nearly as may be in the mode now used on vivâ voce examinations under the said Act of Parliament.

Discovery of documents.

17 & 18 Vict. c. 125. s. 50.

129. Upon the application of either party to any cause or other civil proceeding in any of the superior courts, upon an affidavit by such party, or his attorney or agent, or in the case of a body corporate of their attorney or agent, of his belief that any document to the production of which he is entitled for the purpose of discovery

or otherwise, is in the possession or power of the opposite party, it shall be lawful for the court or judge to order that the party against whom such application is made, or if such party is a body corporate that some officer to be named of such body corporate, shall answer on affidavit stating what documents he or they has or have in his or their possession or power relating to the matters in dispute, or what he knows as to the custody they or any of them are in, and whether he or they objects or object (and if so, on what grounds,) to the production of such as are in his or their possession or power; and upon such affidavit being made the court or judge may make such further order thereon as shall be just.

Power to deliver written interrogatories to opposite party. 17 & 18 Vict. c. 125. s. 51.

130. In all causes in any of the superior courts, by order of the court or a judge, the plaintiff may, with the declaration, and the defendant may, with the plea, or either of them, by leave of the court or a judge, may at any other time, deliver to the opposite party or his attorney (provided such party, if not a body corporate, would be liable to be called and examined as a witness upon such matter) interrogatories in writing upon any matter as to which discovery may be sought, and require such party, or in the case of a body corporate any of the officers of such body corporate, within ten days, to answer the questions in writing by affidavit to be sworn and filed in the ordinary way; and any party or officer omitting, without just cause, sufficiently to answer all questions as to which a discovery may be sought within the above time, or such extended time as the court or a judge shall allow, shall be deemed to have committed a contempt of the court, and shall be liable to be proceeded against accordingly.

Affidavits by party proposing to interrogate or his attorney. 17 & 18 Vict. c. 125. s. 52.

131. The application for such order shall be made upon an affidavit of the party proposing to interrogate, and his attorney or agent, or, in the case of a body corporate of their attorney or agent, stating that the deponents or deponent believe or believes that the party proposing to interrogate, whether plaintiff or defendant, will derive material benefit in the cause from the discovery which he seeks, that there is good cause of action or defence upon the merits, and, if the application be made on the part of the defendant, that the discovery is not sought for the purpose of delay: provided, that where it shall happen from unavoidable circumstances that the plaintiff or defendant cannot join in such affidavit, the court or judge may, if they or he think fit, upon an affidavit of such circumstances, allow and order that the interrogatories may be delivered without such affidavit.

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Oral examination of parties, when to be allowed. 17 & 18 Vict. c. 125. s. 53.

132. In case of omission, without just cause, to answer sufficiently such written interrogatories, it shall be lawful for the court or a judge, at their or his discretion, to direct an oral examination of the interrogated party, as to such points as they or he may direct, before a judge or master; and the court or judge may, by such rule or order, or any subsequent rule or order, command the attendance of such party or parties before the person appointed to take such examination, for the purpose of being orally examined as aforesaid, or the production of any writings or other documents to be mentioned in such rule or order, and may impose therein such terms as to such examination, and the costs of the application and of the proceedings thereon, and otherwise, as to such court or judge shall seem just.

Proceedings upon such rule or order. 17 & 18 Vict. c. 125. s. 54.

133. Such rule or order shall have the same force and effect and may be proceeded upon in like manner as an order made under the said herein-before mentioned Act passed in the session of Parliament holden in the third and fourth years of the reign of Her present Majesty.

Depositions upon such examinations to be returned to master's office. 17 & 18 Vict. c. 125. s. 55. 3 & 4 Vict. c. 105.

134. Whenever by virtue of this Act an examination of any witness or witnesses has been taken before a judge of one of the said superior courts, or before a master, the depositions shall be returned to and kept in the master's office of the court in which the proceedings are pending; and office copies of such depositions may be given out, and the depositions may be otherwise used in the same manner as in the case of depositions taken under the herein-before mentioned Act passed in the third and fourth years of the reign of Her present Majesty.

Examiner may make report to the court. 17 & 18 Vict. c. 125. s. 56.

135. It shall be lawful for every judge or master named in any such rule or order as aforesaid for taking examinations under this Act, and he is hereby required to make, if need be, a special report to the court in which such proceedings are pending, touching such examination, and the conduct or absence of any witness or other person thereon or relating thereto; and the court is hereby authorized to institute such proceedings and make such order and orders upon such report as justice may require, and as may be instituted and made in any case of contempt of the court.

Costs of rule and examination to be in the discretion of the court. 17 & 18 Vict. c. 125. s. 57.

136. The costs of every application for any rule or order to be made for the examination of witnesses by virtue of this Act, and of the rule or order and proceedings thereon, shall be in the discretion of the court or judge by whom such rule or order is made.

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Mandamus and injunction.

And with respect to Mandamus and injunction, be it enacted as follows:

Action for Mandamus to enforce the performance of duties. 17 & 18 Vict. c. 125. s. 68.

137. The plaintiff in any action in any of the superior courts, except replevin and ejectment, may endorse upon the writ and copy to be served a notice that the plaintiff intends to claim a writ of Mandamus; and the plaintiff may thereupon claim in the declaration, either together with any other demand which may now be enforced in such action or separately, a writ of Mandamus commanding the defendant to fulfil any duty in the fulfilment of which the plaintiff is personally interested.

Declaration in action for Mandamus. 17 & 18 Vict. c. 125. s. 69.

138. The declaration in such action shall set forth sufficient grounds upon which such claim is founded, and shall set forth that the plaintiff is personally interested therein, and that he sustains or may sustain damage by the non-performance of such duty, and that performance thereof has been demanded by him and refused or neglected.

Proceedings upon claim for Mandamus. 17 & 18 Vict. c. 125. s. 70.

139. The pleadings and other proceedings in any action in which a writ of Mandamus is claimed shall be the same in all respects, as nearly as may be, and costs shall be recoverable by either party as in an ordinary action for the recovery of damages.

Judgment and execution. 17 & 18 Vict. c. 125. s. 71.

140. In case judgment shall be given for the plaintiff that a Mandamus do issue, it shall be lawful for the court in which such judgment is given, if it shall think fit, besides issuing execution in the ordinary way for the costs and damages, also to issue a peremptory writ of Mandamus to the defendant, commanding him forthwith to perform the duty to be enforced.

Form of peremptory writ. 17 & 18 Vict. c. 125. s. 72.

141. The writ need not recite the declaration or other proceedings, or the matter therein stated, but shall simply command the performance of the duty, and in other respects shall be in the form of an ordinary writ of execution, except that it shall be directed to the party and not to the sheriff, and may be issued in term or vacation, and returnable forthwith; and no return thereto, except that of compliance, shall be allowed, but time to return it may, upon sufficient grounds, be allowed by the court or a judge, either with or without terms.

Effect of writ of Mandamus and proceedings to enforce it. 17 & 18 Vict. c. 125. s. 73.

142. The writ of Mandamus so issued as aforesaid shall have the same force and effect as a peremptory writ of Mandamus issued out of the Court of Queen's Bench, and in case of disobedience may be enforced by attachment.

The court may order

143. The court may, upon application by the plaintiff, besides or instead of proceeding against the disobedient party by attach-

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the act to be done at the expense of the defendant. 17 & 18 Vict. c. 125. s. 74.

ment, direct that the act required to be done may be done by the plaintiff, or some other person appointed by the court, at the expense of the defendant; and upon the act being done, the amount of such expense may be ascertained by the court, either by writ of inquiry or reference to a master, as the court or a judge may order; and the court may order payment of the amount of such expenses and costs, and enforce payment thereof by execution.

Prerogative writ of Mandamus preserved. 17 & 18 Vict. c. 125. s. 75.

144. Nothing herein contained shall take away the jurisdiction of the Court of Queen's Bench to grant writs of Mandamus; nor shall any writ of Mandamus issued out of that court be invalid by reason of the right of the prosecutor to proceed by action for Mandamus under this Act.

Proceedings for prerogative writ of Mandamus. 17 & 18 Vict. c. 125. s. 76.

145. Upon application by motion for any writ of Mandamus in the Court of Queen's Bench, the rule may in all cases be absolute in the first instance if the court shall think fit; and the writ may bear teste on the day of its issuing, and may be made returnable forthwith, whether in term or in vacation, but time may be allowed to return it by the court or a judge, either with or without terms.

Proceedings on prerogative writ of Mandamus. 17 & 18 Vict. c. 125. s. 77.

146. The provisions of this Act, so far as they are applicable, shall apply to the pleadings and proceedings upon a prerogative writ of Mandamus issued by the Court of Queen's Bench.

Specific delivery of chattels. 17 & 18 Vict. c. 125. s. 78.

147. The court or a judge shall have power, if they or he think fit so to do, upon the application of the plaintiff in any action for the detention of any chattel, to order that execution shall issue for the return of the chattel detained, without giving the defendant the option of retaining such chattel upon paying the value assessed, and that if the said chattel cannot be found, and unless the court or a judge should otherwise order, the sheriff shall distrain the defendant by all his lands and chattels in the said sheriff's bailiwick, till the defendant render such chattel, or, at the option of the plaintiff, that he cause to be made of the defendant's goods the assessed value of such chattel; provided that the plaintiff shall, either by the same or a separate writ of execution, be entitled to have made of the defendant's goods the damages, costs, and interest in such action.

Claim of writ of injunction. 17 & 18 Vict. c. 125. s. 79.

148. In all cases of breach of contract or other injury, where the party injured is entitled to maintain and has brought an action, he may in like case and manner as herein-before provided, with respect to Mandamus, claim a writ of injunction against the repe-

tition or continuance of such breach of contract or other injury, or the committal of any breach of contract or injury of a like kind, arising out of the same contract or relating to the same property or right; and he may also in the same action include a claim for damages or other redress.

Form of writ of summons and endorsement thereon. 17 & 18 Vict. c. 125. s. 80.

149. The writ of summons in such action shall be in the same form as the writ of summons in any personal action, but on every such writ and copy thereof there shall be endorsed a notice that in default of appearance the plaintiff may, besides proceeding to judgment and execution for damages and costs, apply for and obtain a writ of injunction.

Form of proceedings and of judgment. 17 & 18 Vict. c. 125. s. 81.

150. The proceedings in such action shall be the same as nearly as may be, and subject to the like control, as the proceedings in an action to obtain a Mandamus under the provisions herein-before contained; and in such action judgment may be given that the writ of injunction do or do not issue, as justice may require; and in case of disobedience, such writ of injunction may be enforced by attachment by the court or by a judge.

Writ of injunction may be applied for at any stage of the cause. 17 & 18 Vict. c. 125. s. 82.

151. It shall be lawful for the plaintiff at any time after the commencement of the action, and whether before or after judgment, to apply ex parte to the court or a judge for a writ of injunction to restrain the defendant in such action from the repetition or continuance of the wrongful act or breach of contract complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract, or relating to the same property or right; and such writ may be granted or denied by the court or judge upon such terms as to the duration of the writ, keeping an account, giving security, or otherwise, as to such court or judge shall seem reasonable and just; and in case of disobedience such writ may be enforced by attachment by the court or by a judge: Provided always, that any order for a writ of injunction made by a judge, or any writ issued by virtue thereof may be discharged or varied or set aside by the court, on application made thereto by any party dissatisfied with such order.

Costs of writs of Mandamus and injunction may be included in writs. 23 & 24 Vict. c. 126. s. 32.

152. In all cases in which a writ of Mandamus or of injunction is issued under the provisions of this Act, such writ shall, unless otherwise ordered by the court or judge, in addition to the matter directed to be inserted therein, command the defendant to pay to the plaintiff the costs of preparing, issuing, and serving such writ; and payment of such costs may be enforced in the same

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manner as costs payable under a rule of court are now by law enforceable.

Notice of trial, inquiry, and countermand.

And with respect to notice of trial and inquiry and countermand, be it enacted as follows:

Time for notice of trial and inquiry. 15 & 16 Vict. c. 76. s. 97.

153. Ten days notice of trial or inquiry shall be given, and shall be sufficient in all cases, whether at bar or nisi prius, in town or country, unless otherwise ordered by the court or a judge.

Notice of countermand. 15 & 16 Vict. c. 70. s. 98.

154. A countermand of notice of trial shall be given four clear days before the time mentioned in the notice of trial, unless short notice of trial has been given, and then two clear days before the time mentioned in the notice of trial, unless otherwise ordered by the court or judge, or by consent.

Costs of the day. 15 & 16 Vict. c. 76. s. 99.

155. A rule for costs of the day for not proceeding to trial pursuant to notice, or not countermanding in sufficient time, may be drawn up on affidavit without motion.

Proceeding where plaintiff neglects to bring on the cause to be tried. 15 & 16 Vict. c. 76. s. 101.

156. Where any issue is, or shall be joined in any cause, and the plaintiff has neglected or shall neglect to bring such issue on to be tried, that is to say, in town causes where issue has been or shall be joined in or in the vacation before any term, for instance, Hilary term, and the plaintiff has neglected or shall neglect to bring the issue on to be tried during or before the following term and vacation, for instance, Easter term and vacation, and in country causes where issue has been or shall be joined in or in the vacation before Hilary or Trinity term, and the plaintiff has neglected or shall neglect to bring the issue on to be tried at or before the second assizes following such term, or if issue has been or shall be joined in or in the vacation before Easter or Michaelmas term, then, if the plaintiff has neglected or shall neglect to bring the issue on to be tried at or before the first assizes after such term, whether the plaintiff shall in the meantime have given notice of trial or not, the defendant may give twenty days notice to the plaintiff to bring the issue on to be tried at the sittings or assizes, as the case may be, next after the expiration of the notice; and if the plaintiff afterwards neglects to give notice of trial for such sittings or assizes, or to proceed to trial in pursuance of the said notice given by the defendant, the defendant may suggest on the record that the plaintiff has failed to proceed to trial, although duly required so to do (which suggestion shall not be traversable, but only be subject to be set aside if untrue), and may sign judgment for his costs: Provided, that the court or a judge shall have power to extend the time for proceeding to trial with or without terms.

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And with respect to the Nisi Prius record, be it enacted as follows:

Nisi Prius record.

157. The record of Nisi Prius shall not be sealed or passed, but may be delivered to the proper officer of the court in which the cause is to be tried, to be by him entered and remain until disposed of.

Nisi Prius record not to be sealed or passed. 15 & 16 Vict. c. 76. s. 102.

And with respect to juries and jury process, be it enacted as follows:

Juries and jury process.

158. No jury process shall be necessary or used in any action, but the precept issued by the judges of assize to the sheriff to summon jurors for the assizes shall direct that the jurors be summoned for the trial of all issues, whether civil or criminal, which may come on for trial at the assizes, and the jurors shall thereupon be summoned in like manner as at present.

Precept by judges of assize to summon jurors for civil as well as criminal trials. 15 & 16 Vict. c. 76. ss. 104, 105.

159. A printed panel of the jurors summoned shall, seven days before the commission day, be made by the sheriff, and kept in the office of the returning officer for inspection; and a printed copy of such panel shall be delivered by the sheriff to any party requiring the same, on payment of one shilling, and such copy shall be annexed to the Nisi Prius record.

A printed panel to be prepared and annexed to the record. 15 & 16 Vict. c. 76. s. 106.

160. The sheriffs of the county and county of the city of Dublin respectively shall, pursuant to a precept under the hand of a judge of any of the said superior courts, and without any other authority, summon a sufficient number of common jurors for the trial of all issues in the superior courts of common law and the consolidated Nisi Prius court, in like manner as before this Act; and seven days before the first day of each sittings, a printed panel of the jurors so summoned for the trial of causes at such sittings shall be made by such sheriffs, and kept in their offices for public inspection; and a printed copy of such panel shall be delivered by the said sheriffs to any party requiring the same, on payment of one shilling, and such copy shall be annexed to the Nisi Prius record, and the said precept shall and may be in like form as the precept issued by the judges of assize, and one thereof shall suffice for each term and after sittings, and for all the superior courts and the consolidated Nisi Prius court, and it shall be the duty of the sheriffs respectively to apply for and procure such precept to be issued in sufficient time before each term to enable them to summon the jurors in manner aforesaid; and it shall be lawful for the several courts, or any judge thereof, at any time to issue such precept or precepts to summon jurors for disposing of the business pending in such courts

Sheriffs of county and county of city of Dublin to summon common jurors, and prepare a panel, to be annexed to the record. 15 & 16 Vict. c. 76. s. 107.

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and in the consolidated Nisi Prius Court, and to direct the time and place for which such jurors shall be summoned, and all such other matters as to the court or judge shall seem requisite.

Special jurors to be summoned to try all special jury causes. 15 & 16 Vict. c. 76. s. 108.

161. The precept issued by the judges of assize, and by the judge of any of the said superior courts, for cases in the county and city of Dublin as aforesaid, shall direct the sheriff to summon a sufficient number of special jurymen, to be mentioned therein, not exceeding in country cases forty-eight in all, to try the special jury causes at the assizes, or in the several superior courts of common law at Dublin respectively; and the persons summoned in pursuance of such precept shall be the jury for trying the special jury causes at the assizes or after sittings respectively, subject to such right of challenge as the parties are now by law entitled to, and subject to the like liability as to the payment of the costs of obtaining such special jury; and a printed panel of the special jurors so summoned shall be made, kept, delivered, and annexed to the nisi prius record, in like time and manner and upon the same terms as herein-before provided with reference to the panel of common jurors; and upon the trial the special jury shall be balloted for, and called in the order in which they shall be drawn from the box, in the same manner as common jurors: provided that the court or a judge, in such case as they or he may think fit, may order that a special jury be struck according to the practice existing before the commencement of the "Common Law Procedure Amendment Act (Ireland), 1853," and such order shall be a sufficient warrant for striking such special jury, and making a panel thereof for the trial of the particular cause.

Mode of obtaining a special jury. 15 & 16 Vict. c. 76. s. 109.

162. The plaintiff in any action except replevin shall be entitled to have the cause tried by a special jury, upon giving notice in writing to the defendant, at such time as would be necessary for a notice of trial, of his intention that the cause shall be so tried; and the plaintiff in an action of replevin, and the defendant in other actions, shall be so entitled, on giving the like notice within the time limited for obtaining a rule for a special jury by a general order to be made as herein-after provided: provided that the court or a judge may at any time order that a cause shall be tried by a special jury upon such terms as they or he shall think fit.

Remedy for delay by notice of trial by special jury. 15 & 16 Vict. c. 76. s. 111.

163. Where the defendant in any case, or the plaintiff in replevin, gives notice of his intention to try the cause by a special jury, the court or a judge, if satisfied that such notice is given for the purpose of delay, may order that the cause be tried by a common jury, or

make such other order as to the trial of the cause as such court or judge shall think fit. A.D. 1869.

Notice to sheriff of trial by special jury. 15 & 16 Vict. c. 76. s. 112.

164. Where notice has been given to try by special jury, either party may, six days before the first day of the sittings or commission day of the assizes, give notice to the sheriff that such cause is to be tried by a special jury; and in case no such notice be given no special jury need be summoned or attend, and the cause may be tried by a common jury unless otherwise ordered by the court or judge.

If special jury not summoned, cause to be tried by a common jury. 15 & 16 Vict. c. 76. s. 113.

165. In all cases where notice is not given to the sheriff that the cause is to be tried by a special jury, and by reason thereof a special jury is not summoned or does not attend, the cause may be tried by a common jury, to be taken from the panel of common jurors, in like manner as if no proceedings had been had to try the cause by a special jury.

View to be by rule. 15 & 16 Vict. c. 76. s. 114.

166. A writ or clause of view shall not be necessary or used, but whether the view is to be had by a common or special jury, it shall be sufficient to obtain a rule of the court or a judge's order, directing a view to be had, and directing the sheriff to have six or more of the jurors named in the panel chosen by consent, or, if the parties cannot agree, nominated by the proper officer of the court at the place in question, some convenient time before the trial; and the viewers shall have the place shown to them by two persons named in the order, and to be appointed by the court or judge; and the sheriff, upon request, shall deliver to either party the names of the viewers, and shall also return their names to the registrar, for the purpose of their being called as jurymen upon the trial.

Court or judge may provide for view out of the county, or county of city, in which action is to be tried.

167. In all actions in which any order shall be made for the purpose of changing the venue it shall be lawful for the court or a judge to provide for a view out of the county in which the action is to be tried; and for that purpose to make such orders, directed to the sheriffs of the different counties, as such court or judge shall think right.

Inspection by jury of parties or witnesses. 17 & 18 Vict. c. 125. s. 58.

168. Either party shall be at liberty to apply to the court or a judge for a rule or order for the inspection by the jury, or by himself or by his witnesses, of any real or personal property the inspection of which may be material to the proper determination of the question in dispute; and it shall be lawful for the court or a judge, if they or he think fit, to make such rule or order upon

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such terms, as to costs and otherwise, as such court or judge may direct.

Rule or order for summoning jury. 17 & 18 Vict. c. 125. s. 59.

169. The several courts, or any judge thereof, may make all such rules or orders upon the sheriff or other person as may be necessary to procure the attendance of a special or common jury for the trial of any cause or matter depending in such courts, at such time and place and in such manner as they or he may think fit.

Proceedings before jurors so returned. 15 & 16 Vict. c. 76. s. 115.

170. The jurors contained in such panels as aforesaid shall be the jurors to try the causes at the assizes and sittings for which they shall be summoned respectively; and all such proceedings may be had and taken before such juries in like manner, and with the like consequences in all respects, as before any jury summoned in pursuance of any writ or writs of Venire facias juratores, Distringas juratores, or Habeas corpora juratorum, before the commencement of the Common Law Procedure Amendment Act (Ireland), 1853, and also in respect of persons summoned to appear upon such juries, and in the event of an insufficient attendance of persons summoned and competent to act as jurors.

Defendant's right to try, upon default of the plaintiff, preserved. 15 & 16 Vict. c. 76. s. 116.

171. Nothing herein contained shall affect the right of a defendant to take down a cause for trial, after default by the plaintiff to proceed to trial, according to the course and practice of the court; and if records are entered for trial both by the plaintiff and the defendant, the defendant's record shall be treated as standing next in order after the plaintiff's record in the list of causes, and the trial of the cause shall take place accordingly.

Two judges may sit at the same time for trial of causes pending in the same court. 17 & 18 Vict. c. 125. s. 2.

172. It shall be lawful for any one of the judges of any of the superior courts at Dublin, at the request of the Lord Chief Justice or Lord Chief Baron, to try the causes entered for trial at Nisi Prius in Dublin in any of the courts, on the same days on which the said Lord Chief Justice or Lord Chief Baron, or any other judge of the same court, shall be sitting to try causes at Dublin, so that the trial of two causes may be proceeded with at the same time; and all jurors, witnesses, and other persons who may have been summoned or required to attend at or for the trial of any cause before the said Lord Chief Justice or Lord Chief Baron, as the case may be, shall give their attendance at and for the trial thereof before such other judge as may be sitting to try the same by virtue of this Act; and it shall be lawful for the registrars and other officers of the Lord Chief Justice or Lord Chief Baron, as the case may be, to appoint from time to time fit and proper persons, to be approved

by the said Lord Chief Justice or Lord Chief Baron, to attend for them and on their behalf respectively before such judge; and the trial of every cause which shall be so had by virtue of this Act shall, if necessary, be entered of record as having been had before the judge by whom such cause in fact was tried. A.D. 1869.

Power to the court or judge in certain cases to direct trial to take place before chairman or recorder. 19 & 20 Vict. c. 108. s. 26.

173. In any action when the plaintiff's claim is for a debt or liquidated demand in money not exceeding twenty pounds, or when such claim, though it originally exceeded twenty pounds, is reduced by payment into court, payment, an admitted set-off, or otherwise, to a sum not exceeding twenty pounds, it shall be lawful for the court or a judge, on the application of either party, after issue joined, in their or his discretion, to order that the cause be tried before any chairman of quarter sessions of any county, or the recorder of any borough, as the court or judge shall direct, and thereupon the plaintiff shall lodge with the clerk of the peace of such county, or the proper officer of such borough court, such order, and the issue; and the judge before whom the same shall be directed to be tried shall appoint a day for the hearing of the cause, notice whereof shall be sent, through the post office or otherwise, to both parties or their attorneys; and after such hearing the clerk of the peace or proper officer shall certify the result to the master's office of such superior court, and judgment in accordance with such certificate may be signed in such superior court.

Arbitration.

And with respect to arbitration, be it enacted as follows:

Power to court or judge to direct arbitration before trial. 17 & 18 Vict. c. 125. s. 3. 21 & 22 Vict. c. 74. s. 5.

174. If it be made appear, at any time after the issuing of the writ, to the satisfaction of the court or a judge, upon the application of either party, that the matter in dispute consists wholly or in part of matters of mere account which cannot conveniently be tried in the ordinary way, it shall be lawful for such court or judge, upon such application, if they or he think fit, to decide such matter in a summary manner, or to order that such matter, either wholly or in part, be referred to an arbitrator appointed by the parties, or to an officer of the court, upon such terms as to costs and otherwise as such court or judge shall think reasonable, and the decision or order of such court or judge, or the award or certificate of such referee, shall be enforceable by the same process as the finding of a jury upon the matter referred.

Special case may be stated, and

175. If it shall appear to the court or a judge that the allowance or disallowance of any particular item or items in such account

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question of fact tried. 17 & 18 Vict. c. 125. s. 4.

depends upon a question of law fit to be decided by the court, or upon a question of fact to be decided by a jury, or by a judge, upon the consent of both parties as herein-before provided, it shall be lawful for such court or judge to direct a case to be stated, or an issue or issues to be tried; and the decision of the court upon such case, and the finding of the jury or judge upon such issue or issues, shall be taken and acted upon by the arbitrator as conclusive.

Arbitrator may state special case. 17 & 18 Vict. c. 125. s. 5.

176. It shall be lawful for the arbitrator, upon any compulsory reference under this Act, or upon any reference by consent of parties, where the submission is or may be made a rule or order of any of the superior courts of law or equity at Dublin, if he shall think fit, and if it is not provided to the contrary, to state his award, as to the whole or any part thereof, in the form of a special case for the opinion of the court; and when an action is referred judgment, if so ordered, may be entered according to the opinion of the court.

Power to judge to direct arbitration at time of trial when issues of fact left to his decision. 17 & 18 Vict. c. 125. s. 6.

177. If upon the trial of any issue of fact by a judge under this Act it shall appear to the judge that the questions arising thereon involve matter of account which cannot conveniently be tried before him, it shall be lawful for him, at his discretion, to order that such matter of account be referred to an arbitrator appointed by the parties, or to an officer of the court, upon such terms as to costs and otherwise, as such judge shall think reasonable, and the award or certificate of such referee shall have the same effect as herein-before provided as to the award or certificate of a referee before trial; and it shall be competent for the judge to proceed to try and dispose of any other matters in question, not referred, in like manner as if no reference had been made.

Proceedings before and power of such arbitrator. 17 & 18 Vict. c. 125. s. 7.

178. The proceedings upon any such arbitration as aforesaid shall, except otherwise directed hereby, or by the submission or document authorizing the reference, be conducted in like manner, and subject to the same rules and enactments as to the power of the arbitrator and of the court, the attendance of witnesses, the production of documents enforcing or setting aside the award, and otherwise, as upon a reference made by consent under a rule of court or judge's order.

Power to send back to arbitrator. 17 & 18 Vict. c. 125. s. 8.

179. In any case where reference shall be made to arbitration as aforesaid the court or a judge shall have power at any time, and from time to time, to remit the matters referred, or any or either of them,

to the re-consideration and re-determination of the said arbitrator, upon such terms as to costs and otherwise as to the said court or judge may seem proper.

Application to set aside the award. 17 & 18 Vict. c. 125. s. 9.

180. All applications to set aside any award made on a compulsory reference under this Act shall and may be made within the first seven days of the term next following the publication of the award to the parties, whether made in vacation or term; and if no such application is made, or if no rule is granted thereon, or if any rule granted thereon is afterwards discharged, such award shall be final between the parties.

Enforcing of awards within period for setting them aside. 17 & 18 Vict. c. 125. s. 10.

181. Any award made on a compulsory reference under this Act may, by authority of the court or a judge, on such terms as to them or him may seem reasonable, be enforced at any time [after seven days from the time of publication, notwithstanding that the time for moving to set it aside has not elapsed.

If action commenced by one party after all have agreed to arbitration, court or judge may stay proceedings. 17 & 18 Vict. c. 125. s. 11.

182. Whenever the parties to any deed or instrument in writing to be hereafter made or executed, or any of them, shall agree that any then existing or future differences between them or any of them shall be referred to arbitration, and any one or more of the parties so agreeing, or any person or persons claiming through or under him or them, shall nevertheless commence any action at law or suit in equity against the other party or parties, or any of them, or against any person or persons claiming through or under him or them in respect of the matters so agreed to be referred, or any of them, it shall be lawful for the court in which the action or suit is brought, or a judge thereof, on application by the defendant or defendants, or any of them, after appearance and before plea or answer, upon being satisfied that no sufficient reason exists why such matters cannot be or ought not to be referred to arbitration according to such agreement as aforesaid, and that the defendant was at the time of the bringing of such action or suit, and still is, ready and willing to join and concur in all acts necessary and proper for causing such matters so to be decided by arbitration, to make a rule or order staying all proceedings in such action or suit, on such terms as to costs and otherwise as to such court or judge may seem fit: provided always, that any such rule or order may at any time afterwards be discharged or varied as justice may require.

On failure of parties or arbitrators.

183. If in any case of arbitration the document authorizing the reference provide that the reference shall be to a single arbi-

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court or judge may appoint single arbitrator or umpire. 17 & 18 Vict. c. 125. s. 12.

trator, and all the parties do not after differences have arisen concur in the appointment of an arbitrator, or if any appointed arbitrator refuse to act, or become incapable of acting, or die, and the terms of such document do not show that it was intended that such vacancy should not be supplied, and the parties do not concur in appointing a new one, or if where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator such parties or arbitrators do not appoint an umpire or third arbitrator, or if any appointed umpire or third arbitrator refuse to act, or become incapable of acting, or die, and the terms of the document authorizing the reference do not show that it was intended that such a vacancy should not be supplied, and the parties or arbitrators respectively do not appoint a new one, then in every such instance any party may serve the remaining parties or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire, or third arbitrator respectively; and if within seven clear days after such notice shall have been served no arbitrator, umpire, or third arbitrator be appointed, it shall be lawful for the court, or any judge of any of the superior courts of law or equity at Dublin, upon application of the party having served such notice as aforesaid, to appoint an arbitrator, umpire, or third arbitrator, as the case may be, and such arbitrator, umpire, and third arbitrator respectively shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

When reference is to two arbitrators, and one party fail to appoint, other party may appoint arbitrator to act alone. 17 & 18 Vict. c. 125. s. 13.

184. When the reference is or is intended to be to two arbitrators, one appointed by each party, it shall be lawful for either party, in the case of the death, refusal to act, or incapacity of any arbitrator appointed by him, to substitute a new arbitrator, unless the document authorizing the reference show that it was intended that the vacancy should not be supplied; and if on such a reference one party fail to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party shall have appointed an arbitrator, and shall have served the party so failing to appoint with notice in writing to make the appointment, the party who has appointed an arbitrator may appoint such arbitrator to act as sole arbitrator in the reference, and an award made by him shall be binding on both parties as if the appointment had been by consent: provided, however, that the court or judge may revoke such appointment on such terms as shall seem just.

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185. When the reference is to two arbitrators, and the terms of the document authorizing it do not show that it was intended that there should not be an umpire, or provide otherwise for the appointment of an umpire, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award, unless they be called upon by notice as aforesaid to make the appointment sooner.

Two arbitrators may appoint umpire. 17 & 18 Vict. c. 125. s. 14.

186. The arbitrator acting under any such document or compulsory order of reference as aforesaid, or under any order referring the award back, shall make his award under his hand, and (unless such document or order respectively shall contain a different limit of time) within three months after he shall have been appointed, and shall have entered on the reference, or shall have been called upon to act by a notice in writing from any party, but the parties may by consent in writing enlarge the term for making the award; and it shall be lawful for the superior court of which such submission, document, or order is or may be made a rule or order, or for any judge thereof, for good cause to be stated in the rule or order for enlargement, from time to time to enlarge the term for making the award; and if no period be stated for the enlargement in such consent or order for enlargement, it shall be deemed to be an enlargement for one month; and in any case where an umpire shall have been appointed it shall be lawful for him to enter on the reference in lieu of the arbitrators, if the latter shall have allowed their time or their extended time to expire without making an award, or shall have delivered to any party or to the umpire a notice in writing stating that they cannot agree.

Award to be made in three months unless parties or court enlarge time. 17 & 18 Vict. c. 125. s. 15.

187. When any award made on any such submission, document, or order of reference as aforesaid directs that possession of any lands or tenements capable of being the subject of an action of ejectment shall be delivered to any party, either forthwith or at any future time, or that any such party is entitled to the possession of any such lands or tenements, it shall be lawful for the court of which the document authorizing the reference is or is made a rule or order, or any judge thereof, to order any party to the reference who shall be in possession of any such lands or tenements, or any person in possession of the same claiming under or put in possession by him since the making of the document authorizing the reference, to deliver possession of the same to the party entitled thereto pur-

Rule to deliver possession of land pursuant to award to be enforced as a judgment in ejectment. 17 & 18 Vict. c. 125. s. 16.

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suant to the award; and such rule or order to deliver possession shall have the effect of a judgment in ejectment against every such party or person named in it, and execution may issue and possession shall be delivered by the sheriff as on a judgment in ejectment.

Agreement or submission in writing may be made rule of court, unless a contrary intention appear.
17 & 18 Vict. c. 125. s. 17.

188. Every agreement or submission to arbitration by consent, whether by deed or instrument in writing not under seal, may be made a rule of any one of the superior courts of law or equity at Dublin, on the application of any party thereto, unless such agreement or submission contain words purporting that the parties intend that it should not be made a rule of court; and if in any such agreement or submission it is provided that the same shall or may be made a rule of one in particular of such superior courts, it may be made a rule of that court only; and if, when there is no such provision, a case be stated in the award for the opinion of one of the superior courts, and such court be specified in the award, and the document authorizing the reference have not, before the publication of the award to the parties, been made a rule of court, such document may be made a rule only of the court specified in the award; and when in any case the document authorizing the reference is or has been made a rule or order of any one of such superior courts, no other of such courts shall have any jurisdiction to entertain any motion respecting the arbitration or award.

Admission of documents; proceedings at trial and evidence.

And with respect to the admission of documents, proceedings at the trial, and evidence, be it enacted as follows:

Admission of documents.
15 & 16 Vict. c. 76. s. 117.

189. Either party may call on the other party by notice to admit any document, saving all just exceptions; and in case of refusal or neglect to admit, the costs of proving the document shall be paid by the party so neglecting or refusing, whatever the result of the cause may be, unless at the trial the judge shall certify that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except in cases where the omission to give the notice is, in the opinion of the taxing officer, a saving of expense.

Proof of admissions.
15 & 16 Vict. c. 76. s. 118.

190. An affidavit of the attorney in the cause, or his clerk, of the due signature of any admissions made in pursuance of such notice, and annexed to the affidavit, shall be in all cases sufficient evidence of such admissions.

Proof of notice to produce.
15 & 16 Vict. c. 76. s. 119.

191. An affidavit of the attorney in the cause, or his clerk, of the service of any notice to produce, in respect of which notice to admit shall have been given, and of the time when it was served, with a copy of such notice to produce annexed to such affidavit, shall be

sufficient evidence of the service of the original of such notice, and of the time when it was served. A.D. 1869.

192. Upon the trial of any cause the addresses to the jury shall be regulated as follows: the party who begins, or his counsel, shall be allowed, in the event of his opponent not announcing at the close of the case of the party who begins his intention to adduce evidence, to address the jury a second time at the close of such case, for the purpose of summing up the evidence; and the party on the other side, or his counsel, shall be allowed to open the case, and also to sum up the evidence (if any); and the right to reply shall be the same as at present. Speeches to the jury. 17 & 18 Vict. c. 125. s. 18.

193. It shall be lawful for the court or judge, at the trial of any cause where they or he may deem it right for the purposes of justice, to order an adjournment for such time, and subject to such terms and conditions as to costs and otherwise, as they or he may think fit. Power to adjourn trial. 17 & 18 Vict. c. 125. s. 19.

194. If any person called as a witness, or required or desiring to make an affidavit or deposition, shall refuse or be unwilling from alleged conscientious motives to be sworn, it shall be lawful for the court or judge, or other presiding officer or person qualified to take affidavits or depositions, upon being satisfied of the sincerity of such objection, to permit such person, instead of being sworn, to make his or her solemn affirmation or declaration in the words following; videlicet, Affirmation instead of oath in certain cases. 17 & 18 Vict. c. 125. s. 20.

'I *A.B.* do solemnly, sincerely, and truly affirm and declare, that the taking of any oath is, according to my religious belief, unlawful; and I do also solemnly, sincerely, and truly affirm and declare, *&c.*'

Which solemn affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form.

195. If any person making such solemn affirmation or declaration shall wilfully, falsely, and corruptly affirm or declare any matter or thing which, if the same had been sworn in the usual form, would have amounted to wilful and corrupt perjury, every such person so offending shall incur the same penalties as by the laws and statutes of this kingdom are or may be enacted or provided against persons convicted of wilful and corrupt perjury. Persons making a false affirmation subject to the same punishment as for perjury. 17 & 18 Vict. c. 125. s. 21.

196. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may, in case the witness shall in the opinion of the judge prove adverse, contradict him by other evidence, or, by leave of the judge, prove that he How far a party may discredit his own witness. 17 & 18 Vict. c. 125. s. 22.

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has made at other times a statement inconsistent with his present testimony; but before such last-mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

Proof of contradictory statements of adverse witness. 17 & 18 Vict. c. 125. s. 23.

197. If a witness, upon cross-examination as to a former statement made by him relative to the subject matter of the cause, and inconsistent with his present testimony, does not distinctly admit that he has made such statement, proof may be given that he did in fact; but before such proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

Cross-examination as to previous statements in writing. 17 & 18 Vict. c. 125. s. 24.

198. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him: provided always, that it shall be competent for the judge at any time during the trial to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he shall think fit.

Proof of previous conviction of a witness may be given. 17 & 18 Vict. c. 125. s. 25.

199. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for such offence, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court where the offender was convicted, or by the deputy of such clerk or officer (for which certificate a fee of five shillings and no more shall be demanded or taken), shall, upon proof of the identity of the person, be sufficient evidence of the said conviction, without proof of the signature or official character of the person appearing to have signed the same.

Attesting witness need not be called except in certain cases. 17 & 18 Vict. c. 125. s. 26.

200. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto.

Comparison of disputed writing.

201. Comparison of a disputed writing with any writing proved to the satisfaction of the judge to be genuine shall be permitted to

be made by witnesses, and such writings and the evidence of witnesses respecting the same may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute.

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17 & 18 Vict. c. 25. s. 127.

202. Upon the production of any document as evidence at the trial of any cause it shall be the duty of the officer of the court whose duty it is to mark such document to call the attention of the judge to any omission or insufficiency of the stamp; and the document, if unstamped or insufficiently stamped, shall not be received in evidence until the whole or (as the case may be) the deficiency of the stamp duty, and the penalty required by statute, together with the additional penalty of one pound, shall have been paid.

Provision for stamping documents at the trial.

17 & 18 Vict. c. 125. s. 28.

CLAUSE A.

Such officer of the court shall upon payment to him of the whole or (as the case may be) of the deficiency of the stamp duty payable upon or in respect of such document, and of the penalty required by statute, and of the additional penalty of one pound, give a receipt for the amount of the duty or deficiency which the judge shall determine to be payable, and also of the penalty, and thereupon such document shall be admissible in evidence, saving all just exceptions on other grounds; and an entry of the fact of such payment, and of the amount thereof, shall be made in a book kept by such officer; and such officer shall at the end of each sittings or assizes (as the case may be) duly make a return to the commissioners of inland revenue of the moneys, if any, which he has so received by way of duty or penalty, distinguishing between such moneys, and stating the name of the cause and of the parties from whom he received such moneys, and the date, if any, and description of the document for the purpose of identifying the same, and he shall pay over the said moneys to the Receiver General of the Inland Revenue, or to such person as the said commissioners shall appoint or authorize to receive the same; and in case such officer shall neglect or refuse to furnish such account, or to pay over any of the moneys so received by him as aforesaid, he shall be liable to be proceeded against in the manner directed by the eighth section of an Act passed in the session of Parliament holden in the thirteenth and fourteenth years of the reign of Her present Majesty, intituled "An Act to repeal certain "Stamp Duties, and to grant others in lieu thereof; and to amend "the Laws relating to the Stamp Duties;" and the said commissioners shall, upon request and production of the receipt hereinbefore mentioned, cause such documents to be stamped with the proper stamp or stamps in respect of the sums so paid as aforesaid.

Officer of the court to receive the duty and penalty.

17 & 18 Vict. c. 125. s. 29.

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Clause B. Secondary evidence may be given of lost documents where original unstamped.

If, upon any trial or other proceeding pending in any court, it shall appear to the court or judge or other presiding officer that any document liable to stamp duty has been lost or destroyed, or cannot be produced, and that such document was or is either unstamped or insufficiently stamped, and that but for such defect secondary evidence thereof would be admissible, it shall be lawful for such court, judge, or other presiding officer, at their or his discretion, upon payment to the officer of the court whose duty it would be to mark the said document if forthcoming of the whole, or, as the case may be, of the deficiency of the stamp duty which the court or judge or other presiding officer shall determine to be payable upon or in respect of such document, and of such penalties as mentioned in the last preceding section, to receive secondary evidence of the contents of such document, saving all just exceptions on other grounds; and the last-mentioned officer shall, upon demand, within a reasonable time after such trial, deliver to the party by whom or on whose behalf such stamp duty and penalties have been paid, a certificate under his hand containing the title of the cause or other proceeding in which such payment has been made, the nature of the stamp duty, and the amount which the judge or other presiding officer shall have determined to be payable as aforesaid, the moneys received in respect of stamp duty and penalties, distinguishing between such moneys, and such short description and summary of the contents of the document as may be sufficient to identify the same; and such certificate shall thenceforth have the same force and effect in all courts of justice as if such original document were duly impressed with the stamp expressed in such certificate; and the said officer shall make such returns and payments in respect of moneys so to be received by him as are provided by the last preceding section, and in case of neglect or refusal so to do he shall be liable to be proceeded against in the manner provided in the last preceding section.

Clause C. The last two preceding sections not to apply where document cannot be stamped after execution. 17 & 18 Vict. c. 125. s. 29.

The enactments contained in the last two preceding sections shall not extend to the case of any document which cannot now be stamped after the execution thereof on the payment of the duty and a penalty.

Clause D. No document under this Act to require a stamp. 17 & 18 Vict. c. 125. s. 30.

No document made or required under the provisions of this Act shall, save as herein-after provided, be liable to any stamp duty.

No new trial for ruling as to stamp. 17 & 18 Vict. c. 125. s. 31.

203. No new trial shall be granted by reason of the ruling of any judge that the stamp upon or in respect of any document is sufficient, or that the document does not require a stamp.

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With respect to bills of exception, be it enacted as follows:

Bills of exceptions.

204. Every bill of exceptions may be according to the form No. 7. in the Schedule (A.) to this Act annexed; and it shall be lawful, by consent of the parties or order of the judge, to incorporate any deed or document therewith by an appropriate reference to such deed or document, without setting forth the same.

Form of bill of exceptions. 16 & 17 Vict. c. 113. s. 121.

With respect to the form and manner of entering judgment, be it enacted as follows:

Judgment.

205. No judgment shall be arrested or stayed or reversed by reason of any imperfection, omission, defect in, or lack of form in any declaration or other pleading or proceeding, nor by reason that the venue is misplaced, or the trial had in a wrong county or place, nor by reason of any misnomer of any of the jurors who tried the case in name, surname, or addition, so as it appeared to the court to be the same person that was meant to be returned, nor by reason that the plaintiff or defendant, being under the age of twenty-one years, did sue or defend by attorney.

Judgment not to be arrested on technical grounds. 16 & 17 Vict. c. 113. s. 122.

206. It shall not be necessary, before issuing execution upon any judgment under the authority of this Act, to enter the proceedings upon any roll, but on producing and lodging with the proper officer a certificate of the name, description, and address of the parties, an entry shall be made in the judgment book, signed by the master, shortly stating the nature of the judgment, and thereupon the costs shall be taxed and execution issued according to the practice heretofore used; and such entry in the said judgment book shall contain a reference to the number of the roll on which such judgment shall be enrolled, and shall contain a column in which any satisfaction of the said judgment may be afterwards entered, if necessary: provided nevertheless, that the proceedings may be entered upon the roll whenever the same may become necessary for the purpose of evidence, or of bringing error, or the like.

Entry of judgment on the roll unnecessary for execution. 16 & 17 Vict. c. 113. s. 123.

207. In all actions where the plaintiff recovers a sum of money the amount to which he is entitled may be awarded to him generally without any distinction being therein made as to whether such sum is recovered by way of debt or damages.

Judgment for money demands without distinction between debt and damages. 15 & 16 Vict. c. 76. s. 95.

And with respect to execution, be it enacted as follows:

Execution.

208. A plaintiff or defendant having obtained a verdict or nonsuit in a cause tried out of term shall be entitled, without any rule on the postea or inquisition, to mark judgment, and to issue execution in fourteen days, and in a cause tried in term in four days, unless the judge who tries the cause, or some other judge, or the court, shall order execution to issue at an earlier or later period,

Execution after trial. 16 & 17 Vict. c. 113. s. 127.

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with or without terms; and it shall be lawful for the said judge before whom the trial has been had, or any other judge, or the court, to make such order accordingly: provided that, notwithstanding any judgment signed or recorded or execution issued by virtue of this Act, it shall be lawful for the court in which such action shall have been brought to order such judgment to be vacated, and execution to be stayed or set aside, and to enter an arrest of judgment, or grant a new trial or new writ of inquiry, as justice may appear to require, and thereupon the party affected by such execution shall be restored to all he may have lost thereby in such manner as upon the reversal of a judgment by a proceeding in error, or otherwise as the court may think fit to direct.

Ground writs not necessary. 15 & 16 Vict. c. 76. s. 121.

209. It shall not be necessary to issue any writ directed to the sheriff of the county in which the venue is laid, but writs of execution may issue at once into any county, and be directed to and executed by the sheriff of any county, without reference to the county in which the venue is laid, and without any suggestion of the issuing of a prior writ into such county.

Expenses of execution. 15 & 16 Vict. c. 76. s. 123.

210. In every case of execution the party entitled to execution may levy the poundage fees and expenses of the execution, over and above the sum recovered.

Writs of execution to remain in force for one year, and to be renewed if necessary. 15 & 16 Vict. c. 76. s. 124.

211. A writ of execution issued after the commencement of this Act, if unexecuted, shall not remain in force for more than one year, from the teste of such writ, unless renewed in the manner herein-after provided; but such writ may, at any time before its expiration, be renewed by the party issuing it, for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, either by being marked with a seal bearing the date of the day, month, and year of such renewal (such seal to be provided and kept for that purpose at the office of the master of the court out of which such writ issued), or by such party giving a written notice of renewal to the sheriff, signed by the party or his attorney, and bearing the like seal of the court; and a writ of execution so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof: provided, however, that no writ of Habere shall be renewed without the special leave of the court or judge.

Production of renewed writ evidence of renewal. 15 & 16 Vict. c. 76. s. 125.

212. The production of a writ of execution, or of the notice renewing the same, purporting to be marked with such seal, showing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed.

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Sheriff or gaoler may discharge prisoner by authority of attorney in the cause. 15 & 16 Vict. c. 76. s. 126.

213. A written order under the hand of the attorney in the cause by whom any writ of Capias ad satisfaciendum shall have been issued shall justify the sheriff, gaoler, or person in whose custody the party may be under such writ in discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary to such sheriff, gaoler, or person in whose custody the opposite party may be, but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

Proceedings for charging in execution a person already in prison of the court. 15 & 16 Vict. c. 76. s. 127.

214. It shall not be necessary in any case to sue out a writ of Habeas corpus ad satisfaciendum to charge in execution a person already in the prison of the court, but such person may be so charged in execution by a judge's order made upon affidavit that judgment has been signed and is not satisfied; and the service of such order upon the keeper of the prison for the time being shall have the effect of a detainer.

Sheriff empowered to seize money, bank notes, &c., and to pay money or bank notes to execution creditor. 16 & 17 Vict. c. 113. s. 131. 3 & 4 Vict. c. 105. s. 20.

215. By virtue of any writ of Fieri facias to be sued out of any superior or inferior court, or any precept in pursuance thereof, the sheriff or other officer having the execution thereof may and shall seize and take any money or bank notes (whether of the Governor and Company of the Bank of Ireland or of any other bank or bankers), and any cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money, belonging to the person against whose effects such writ of Fieri facias shall be sued out, and may and shall pay or deliver to the party suing out such execution any money or bank notes which shall be so seized, or a sufficient part thereof, and may and shall hold any such cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money as a security or securities for the amount by such writ of Fieri facias directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may sue in the name of such sheriff or other officer for the recovery of the sum or sums secured thereby, if and when the time of payment thereof shall have arrived; and the payment to such sheriff or other officer by the party liable, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment, or of such recovery and levy in execution, as the case may be, from his liability on any such cheque, bill of exchange, promissory note, bond, specialty, or other security; and such sheriff or other officer may and shall pay over

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to the party suing out such writ the money so to be recovered, or such part thereof as shall be sufficient to discharge the amount by such writ directed to be levied; and if, after satisfaction of the amount so to be levied, together with sheriff's poundage and expenses, any surplus shall remain in the hands of such sheriff or other officer, the same shall be paid to the party against whom such writ shall be so issued: provided that no such sheriff or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, bond, specialty, or other security, unless the party suing out such execution shall enter into a bond, with two sufficient sureties, for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof, the amount of such bond or the sufficiency of such sureties, or such amount and such sufficiency, to be determined by the master of the court in which such action shall be brought, or, if the court shall so order, by a commissioner of such court authorized to take special bail, and the expense of such bond to be deducted out of any money to be recovered in such action.

Attachment of Government and public stock and shares. 16 & 17 Vict. c. 113. s. 132. 3 & 4 Vict. c. 105. s. 23.

216. If any person against whom any judgment shall have been entered up in any of Her Majesty's superior courts at Dublin shall have any Government stock, funds, or annuities, or any stock or shares in any public company in Ireland, whether incorporated or not, and standing in his name in his own right, or in the name of any person in trust for him, it shall be lawful for the court or a judge, on the application of such judgment creditor, to order that such stock, funds, annuities, or shares, or such of them or such part thereof as such court or judge shall think fit, shall stand charged with the payment of the amount for which such judgment shall have been so recovered, and interest thereon, and such order shall entitle the judgment creditor to all such remedies as he would have been entitled to if such charge had been made in his favour by the judgment debtor; and the provisions last aforesaid shall extend to the interest of any judgment debtor, whether in possession, remainder, or reversion, and whether vested or contingent, as well in any such stocks, funds, annuities, or shares as aforesaid, as also in the dividends, interest, or annual produce of any such stocks, funds, securities, or shares; provided that no proceedings shall be taken to have the benefit of such charge until after the expiration of six calendar months from the date of such order.

Order in respect of money in

217. If such judgment debtor shall have any such estate or interest, as mentioned in the last preceding section, in any such

stock, funds, annuities, or shares, or money, which shall be standing in the name of the accountant general of the Court of Chancery, or of the Landed Estates Court, or of the master of any of the superior courts of law in Ireland, or in the dividends, interest, or annual produce thereof, it shall be lawful for the court or a judge to make such order as to such stock, funds, annuities, shares, or the dividends, interest, and annual produce thereof, as if the same had been standing in the name of a trustee for such judgment debtor; but no such order shall prevent the Governor and Company of the Bank of Ireland or any public company from permitting any transfer of such stocks, funds, annuities, or shares, or money, or the payment of the dividends, interest, or annual produce thereof, in such manner as the said Court of Chancery, or the Landed Estates Court, or the Court of Common Law may direct, or shall have any greater effect than if such debtor had charged such stock, funds, annuities, or shares, or the interest, dividends, or annual produce thereof, in favour of the judgment creditor, with the amount of the sum to be mentioned in any such order; provided that no proceedings shall be taken to have the benefit of such charge until after the expiration of six calendar months from the date of such order; and provided also, that it shall be lawful for the said Court of Chancery, or Court of Common Law, or the said Landed Estates Court, on the application of the judgment creditor, to make such order in respect of same as shall be just.

name of accountant general. 16 & 17 Vict. c. 113. s. 135. 3 & 4 Vict. c. 105. s. 23.

218. And in order to prevent any person against whom judgment shall have been obtained from transferring, receiving, or disposing of any stock, funds, annuities, or shares hereby authorized to be charged for the benefit of a judgment creditor, under an order of a court or judge, be it enacted, that every order of such court or judge charging any Government stock, funds, or annuities, or any stock or shares in any public company under this Act, shall be made in the first instance ex parte and without any notice to the judgment debtor, and shall be an order to show cause only; and such order, if any Government stock, funds, or annuities standing in the name of the judgment debtor in his own right, or in the name of any person in trust for him, is or are to be affected by such order, shall restrain the Governor and Company of the Bank of Ireland from permitting a transfer of such stock in the meantime, and until such order shall be made absolute or discharged; and if any stock or shares of or in any public company standing in the name of the judgment debtor in his own right, or in the name of any person in trust for him, is or are to be affected by any such order,

Order of court or judge to be made in the first instance ex parte, and notice to bank or company to operate as a Distringas. 3 & 4 Vict. c. 105. s. 24.

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shall in like manner restrain such public company from permitting a transfer thereof; and if after notice of such order to the person or persons to be restrained thereby, or in case of corporations, to any authorized agent of such corporation, and before the same order shall be discharged or made absolute, such corporation or person or persons, shall permit any such transfer to be made, then and in such case the corporation or person or persons so permitting such transfer shall be liable to the judgment creditor for the value or amount of the property so charged and so transferred, or such part thereof as may be sufficient to satisfy his judgment; and no disposition of the judgment debtor in the meantime shall be valid or effectual as against the judgment creditor; and further, unless the judgment creditor shall within a time to be mentioned in such order show to one of the said courts or a judge thereof sufficient cause to the contrary, the said order shall, after proof of notice thereof to the judgment debtor, his attorney, or agent, be made absolute: provided that any such court or judge shall, upon the application of the judgment debtor, or any person interested, have full power to discharge or vary such order, and to award such costs upon such application as the said court or judge may think fit.

Execution against beneficed clergymen. 16 & 17 Vict. c. 113. s. 136.

219. Where to a writ of Fieri facias issued against a beneficed clergyman the sheriff shall have returned nulla bona, and that the defendant is a beneficed clerk having no lay fee, the plaintiff may as of course issue a writ of execution De bonis ecclesiasticis directed to the bishop of any diocese in which the defendant may have a benefice, and at any time after a writ of execution De bonis ecclesiasticis shall have been delivered to any bishop, the plaintiff may apply to the court by motion for an order that the bishop do certify what has been done under the writ, and that the sequestrator do account; and where in obedience to any such writ of Fieri facias de bonis ecclesiasticis, a sequestration of the ecclesiastical benefice shall be issued by any bishop, it shall be lawful for any court in which any judgment shall be had against the same defendant, and execution issued and returned nulla bona, to make an order extending the said sequestration to the matter of the said last-mentioned judgment, without any further writ or proceeding; and the said last-mentioned creditor shall have the benefit of such sequestration, and with priority as from the date of such order of extension, as if it were a sequestration issued at his own instance.

Return of Devastavit not to be

220. No sheriff or other officer shall return a Devastavit against any defendant being an executor or administrator in any action,

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but upon any inquisition taken on the oaths of twelve lawful men of his county to whom challenge may be taken; and the plaintiff shall give the defendant ten days previous notice of the taking of such inquisition, and of the time and place of taking the same; and upon the return of such Devastavit the plaintiff shall be entitled to immediate execution De bonis propriis without further rule or judgment.

made but on finding of jury. 16 & 17 Vict. c. 113. s. 137.

221. It shall be lawful for any creditor who has obtained a judgment in any of the superior courts to apply to the court or a judge for a rule or order that the judgment debtor should be orally examined as to any and what debts are owing to him before a master of the court, or such other person as the court or judge shall appoint, and the court or judge may make such rule or order for the examination of such judgment debtor and for the production of any books or documents, and the examination shall be conducted in the same manner as in the case of an oral examination of an opposite party before a master under this Act.

Examination of judgment debtor as to debts due to him. 17 & 18 Vict. c. 125. s. 60.

222. It shall be lawful for the court or a judge, upon the ex parte application of such judgment creditor, either before or after such oral examination, and upon affidavit by himself or his attorney, stating that judgment has been recovered, and that it is still unsatisfied, and to what amount, and that any other person is indebted to the judgment creditor, and is within the jurisdiction, to order that all debts owing or accruing from such third person (herein-after called the garnishee) to the judgment debtor shall be attached to answer the judgment debt; and by the same or any subsequent order it may be ordered that the garnishee shall appear before the court or judge, to show cause why he should not pay the judgment creditor the debt due from him to the judgment debtor, or so much thereof as may be sufficient to satisfy the judgment debt; and the court may, in relation to the service of such order, or any notice thereof, exercise such or the like powers as are contained in the sixteenth, seventeenth, eighteenth, and nineteenth sections of this Act, in relation to the service of writs in personal actions.

Court or judge may order an attachment of debts. 17 & 18 Vict. c. 125. s. 61.

223. Service of an order that debts due or accruing to the judgment debtor shall be attached, or notice thereof to the garnishee, in such manner as the court or judge shall direct, shall bind such debts in his hands.

Order for attachment to bind debts. 17 & 18 Vict. c. 125. s. 62.

224. If the garnishee does not forthwith pay into court the amount due from him to the judgment debtor, or an amount equal to the judgment debt, and does not dispute the debt due or claimed

Proceedings to levy amount due from garnishee to

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judgment debtor. 17 & 18 Vict. c. 125. s. 63.

to be due from him to the judgment debtor, or if he does not appear upon summons, then the court or judge may order execution to issue, and it may be sued forth accordingly, without any previous writ or process, to levy the amount due from such garnishee towards satisfaction of the judgment debt.

The court or a judge may allow judgment creditor to sue garnishee. 17 & 18 Vict. c. 125. s. 64.

225. If the garnishee disputes his liability, the court or a judge, instead of making an order that execution shall issue, may order that the judgment creditor shall be at liberty to proceed against the garnishee by writ, calling upon him to show cause why there should not be execution against him for the alleged debt, or for the amount due to the judgment debtor, if less than the judgment debt, and for costs of suit; and the proceedings upon such suit shall be the same as nearly as may be as upon a writ of revivor issued under this Act.

Garnishee discharged. 17 & 18 Vict. c. 125. s. 65.

226. Payment made by or execution levied upon the garnishee under any such proceedings as aforesaid shall be a valid discharge to him as against the judgment debtor to the amount paid or levied, although such proceeding may be set aside or the judgment reversed.

Attachment book to be kept by the masters of each court. 17 & 18 Vict. c. 125. s. 66.

227. In each of the superior courts there shall be kept at the master's office a debt attachment book, and in such book entries shall be made of the attachment and proceedings thereon, with names, dates, and statements of the amount recovered, and otherwise; and the mode of keeping such books shall be the same in all the courts; and copies of any entries made therein may be taken by any person upon application to the master.

Costs of application. 17 & 18 Vict. c. 125. s. 67.

228. The costs of any application for an attachment of debt under this Act, and of any proceedings arising from or incidental to such application, shall be in the discretion of the court or a judge.

The court or a judge may refuse to interfere in proceedings to attach debts. 23 & 24 Vict. c. 126. s. 28.

229. In proceedings to obtain an attachment of debts under the foregoing provisions, the court or judge may, in their or his discretion, refuse to interfere, or may impose such terms and conditions as to the time and mode of payment, or otherwise, as they or he may think fit.

Proceedings where third person has a lien on the debt. 23 & 24 Vict. c. 126. s. 29.

230. Whenever in proceedings to obtain an attachment of debts under this Act it is suggested by the garnishee that the debt sought to be attached belongs to some third person who has a lien or charge upon it, the court or judge may order such third person to appear before them or him, and state the nature and particulars of his claim upon such debt.

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The court or a judge may bar claim of third person, and make orders. 23 & 24 Vict. c. 126. s. 30.

231. After hearing the allegations of such third person under such order, and of any other person whom by the same or any subsequent order the court or judge may think fit to call before them or him, or in case of such third person not appearing before them or him upon such summons, the court or judge may order execution to issue to levy the amount due from such garnishee, or the judgment creditor to proceed against the garnishee, according to the provisions of this Act, and may bar the claim of such third person, or make such other order as the court or judge shall think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as they or he shall think just and reasonable.

Mode of enforcing writs of injunction against corporations. 23 & 24 Vict. c. 126. s. 33.

232. Writs of injunction against a corporation may be enforced either by attachment against the directors or other officers thereof, or by writ of sequestration against the property and effects of such corporation, or of such directors or officers, to be issued in such form and tested and returnable in like manner as writs of execution, and to be proceeded upon and in like manner as writs of sequestration issuing out of the Court of Chancery.

Assignment of breaches.

And with respect to the assignment and suggestion of breaches on covenants and agreements for payment of any penal sum, be it enacted as follows:

Assignment of breaches on penal covenant. 16 & 17 Vict. c. 113. s. 145.

233. In any action on any bond, covenant, or agreement for payment of any penal sum for nonperformance of any covenant or agreement contained in any deed or writing, and whether accompanied by warrant of attorney or not, the plaintiff may, in the declaration, assign one or more than one breach of such covenant or agreement.

Damages on breaches to be ascertained. 16 & 17 Vict. c. 113. s. 146.

234. In all such actions as last aforesaid, the jury or the master shall ascertain the damages in respect of such breach or breaches as shall be proved or admitted, and judgment shall be entered for the full amount of such penalty, with an award of the payment of the damages assessed, if any; and in case the defendant shall pay into court to the credit of the cause the damages so assessed by the jury or the master, with the costs of suit, a stay of execution shall be entered on the record of such judgment for that time; and in case the plaintiff shall be paid or satisfied the said damages so assessed or the penal sum aforesaid at the election of the defendant, with the costs of suit aforesaid and of execution, the defendant shall be discharged from such execution entirely or for that time, and for the amount so paid, according as the case may be, and such discharge may be entered on the record of the

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said judgment; but in case the said damages do not amount to the said penal sum, such judgment shall still remain in full force as a further security to answer the plaintiff, his executors and administrators, all such damages as may be afterwards sustained by reason of any further breach of any covenant or agreement in the said deed or writing as far as the remainder of such penal sum, after the payment of the damages formerly recovered out of the same, will reach.

Suggestion of further breaches and execution on same. 16 & 17 Vict. c. 113. s. 147.

235. In all such actions as last aforesaid, in case judgment shall pass for the plaintiff, and the full amount thereof, and the costs of suit shall not have been paid or levied, and afterwards any further breach or breaches shall happen, the plaintiff shall be at liberty to file one or more than one suggestion of such breaches in the form No. 8. in the schedule (A.) to this Act annexed, or to the like effect, and such suggestion shall be pleaded to and the truth of the matters therein suggested shall be tried, and damages awarded, and judgment and execution shall be given in like manner as if the same were on writ and declaration; and upon payment or satisfaction of such further damages and costs, further proceedings shall be stayed for that time, and so from time to time as often as occasion may require, on every new breach the said judgment may be resorted to, so far as aforesaid, and no further; and upon payment or satisfaction made to the full amount of the said penal sum and costs as aforesaid, the said defendant, his body, lands, and goods, shall be discharged of all execution in respect of the same.

Proceedings to revive.

And with respect to proceedings for the revival of judgments and other proceedings by and against persons not parties to the record, be it enacted as follows:

Execution in six years without revival. 15 & 16 Vict. c. 76. s. 128.

236. Writs of execution may be issued at any time within six years after the recovery of the judgment, by or against the plaintiffs or defendants, or the survivors of them, without any revival of such judgment.

Judgment to be revived by writ or with leave of court or judge by suggestion. 15 & 16 Vict. c. 76. s. 129.

237. In cases where it shall become necessary to revive a judgment by reason either of lapse of time or of a change by death, or otherwise, of the parties entitled or liable to execution, the party alleging himself to be entitled to execution may either sue out a writ of revivor in the form herein-after mentioned, or apply to the court or a judge for leave to enter a suggestion upon the roll, to the effect that it manifestly appears to the court that such party is entitled to have execution of the judgment and to issue execution thereupon; such leave to be granted by the court or a judge upon a rule to show cause, and which rule may be in the

form contained in the schedule (A.) to this Act annexed, marked No. 9., or to the like effect.

Proceedings upon application for suggestion to revive judgment. 15 & 16 Vict. c. 76. s. 130.

238. Upon such application, in case it manifestly appears that the party making the same is entitled to execution, the court or judge shall allow such suggestion as aforesaid to be entered in the form contained in the schedule (A.) to this Act annexed marked No. 10., or to the like effect, and execution to issue thereupon, and shall order, whether or not the costs of such application shall be paid to the party making the same, and in case the said costs shall be so ordered to the party making the application, they shall be costs in the cause; and in case it does not manifestly so appear, the court or judge shall discharge the rule with or without costs: provided nevertheless, that in such last-mentioned case the party making such application shall be at liberty to proceed by writ of Revivor or action upon the judgment.

Plea of payment of judgment. 16 & 17 Vict. c. 113. s. 125.

239. In any action on a judgment or in any proceeding by writ of Revivor to revive a judgment, or to have execution for the sum remaining due and unsatisfied on foot of such judgment, if the defendant has paid the money due on such judgment or the balance claimed on foot of the same, such payment shall and may be pleaded in bar of any such action or proceeding by writ of Revivor.

Writ of Revivor and proceedings thereon. 15 & 16 Vict. c. 76. s. 131.

240. The writ of Revivor shall be directed to the party called upon to show cause why execution should not be awarded, and shall bear teste on the day of its issuing; and after reciting the reason why such writ has become necessary it shall call upon the party to whom it is directed to appear within eight days after service thereof in the court out of which it issues, to show cause why the party at whose instance such writ has been issued should not have execution against the party to whom such writ is directed for the amount claimed to be due, and it shall give notice that, in default of appearance, the party issuing such writ may proceed to execution for such amount, together with the costs of such proceedings; and such writ may be in the form contained in the schedule (A.) to this Act annexed, marked No. 11., or to the like effect, and may be served in any county, and otherwise proceeded upon, whether in term or vacation, in the same manner as a writ of summons; and the venue in a declaration upon such writ may be laid in any county; and the pleadings and proceedings thereupon, and the rights of the parties respectively to costs, shall be the same as in an ordinary action.

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Writs of Scire facias in other cases to be tested, directed, and proceeded upon in like manner.
15 & 16 Vict. c. 76. s. 132.
17 & 18 Vict. c. 125. s. 91.

241. All writs of Scire facias issued out of any of the superior courts of law at Dublin against bail on a recognizance, against members of a joint stock company or other body upon a judgment recorded against a public officer or other person sued as representing such company or body, or against such company or body itself, by or against a husband to have execution of a judgment for or against a wife, for restitution after a reversal in error, or for the recovery of land taken under an elegit, or for execution upon a judgment of assets in futuro, shall be tested, directed, and proceeded upon in like manner as writs of Revivor.

Appearance to writ of Revivor.
15 & 16 Vict. c. 76. s. 133.

242. Notice in writing to the plaintiff, his attorney or agent, shall be sufficient appearance to a writ of Revivor.

As to issue of writ of Revivor upon judgment more than ten years old.
15 & 16 Vict. c. 76. s. 134.

243. A writ of Revivor to revive a judgment less than ten years old shall be allowed without any rule or order; if more than ten years old not without an order of the court or a judge, nor, if more than fifteen, without a rule to show cause.

Satisfaction of judgments.

And with respect to the satisfaction of judgments, be it enacted as follows:

Satisfaction of judgments by party.
16 & 17 Vict. c. 113. s. 143.

244. When any party who shall have recovered judgment in any of the said courts, or his personal representative or legal assignee, shall be willing to cause an entry of satisfaction thereof or a memorandum of part payment to be entered on the record, such party shall execute a satisfaction piece according to the Form No. 12. in the schedule (A.) to this Act annexed (which satisfaction piece shall not be subject to any stamp duty); and such satisfaction piece shall be executed in the presence of one witness who shall attest by affidavit the execution of the same; and thereupon it shall be lawful for any attorney of the said court employed for that purpose to require the proper officer to enter satisfaction or a memorandum of part payment on the record of such judgment; and such officer shall, on having such satisfaction piece verified as aforesaid, and such requisition lodged with him, enter such satisfaction or a memorandum of part payment on the record accordingly.

Court may order satisfaction to be entered on judgment fully paid.
16 & 17 Vict. c. 113. s. 144.

245. It shall be lawful for the court or a judge to order a memorandum of satisfaction to be entered upon the record of any judgment, judgment roll, or judgment book if it shall clearly appear to the said court or judge that the debt or damages for which the said judgment was obtained have been fully satisfied and discharged.

Death, marriage, and bankruptcy.

And with respect to the effect of death, marriage, and bankruptcy upon the proceedings in an action, be it enacted as follows:

Action not to abate by death. 15 & 16 Vict. c. 76. s. 135.

246. The death of a plaintiff or defendant shall not cause the action to abate, but it may be continued as herein-after mentioned.

Proceedings in case of death of one or more of several plaintiffs or defendants. 15 & 16 Vict. c. 76. s. 136.

247. If there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the action shall not be thereby abated, but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

Proceeding in case of death of sole plaintiff. 15 & 16 Vict. c. 76. s. 137.

248. In case of the death of a sole plaintiff or sole surviving plaintiff, when the action survives, the legal representative of such plaintiff may, by leave of the court or a judge, enter a suggestion of the death, and that he is such legal representative, and the action shall thereupon proceed; and if such suggestion be made before the trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased plaintiff, and such judgment shall follow upon the verdict in favour of or against the person making such suggestion as if such person were originally the plaintiff.

Proceeding upon death of sole or sole surviving defendant. 15 & 16 Vict. c. 76. s. 138.

249. In case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make a suggestion, either in any of the pleadings if the cause has not arrived at issue, or in a copy of the issue if it has so arrived, of the death, and that a person named therein is the executor or administrator of the deceased, and may thereupon serve such executor or administrator with a copy of the writ and suggestion, and with a notice, signed by the plaintiff or his attorney, requiring such executor or administrator to appear within eight days after service of the notice, inclusive of the day of such service, and that in default of his so doing the plaintiff may sign judgment against him as such executor or administrator; and the same proceedings may be had and taken in case of nonappearance after such notice as upon a writ against such executor or administrator in respect of the cause for which the action was brought; and in case no pleadings have taken place before the death, the suggestion shall form part of the declaration, and the declaration and suggestion may be served together, and the new defendant shall plead thereto at the same time; and in case the plaintiff shall have declared, but the defendant shall not have pleaded before the death, the new defendant shall plead at the same time to the declaration and suggestion; and in case the

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defendant shall have pleaded before the death, the new defendant shall be at liberty to plead to the suggestion only by way of denial, or such plea as may be appropriate to and rendered necessary by his character of executor or administrator, unless by leave of the court or a judge he should be permitted to plead fresh matter in answer to the declaration; and in case the defendant shall have pleaded before the death, but the pleadings shall not have arrived at issue, the new defendant, besides pleading to the suggestion, shall continue the pleadings to issue in the same manner as the deceased might have done, and the pleadings upon the declaration and the pleadings upon the suggestion shall be tried together; and in case the plaintiff shall recover, he shall be entitled to the like judgment in respect of the debt or sum sought to be recovered, and in respect of the costs prior to the suggestion, and in respect of the costs of the suggestion and subsequent thereto he shall be entitled to the like judgment as in an action originally commenced against the executor or administrator.

Death between verdict and judgment. 15 & 16 Vict. c. 76. s. 139.

250. The death of either party between the verdict or nonsuit and the judgment shall not hereafter be alleged for error, so as such judgment be entered within two terms after such verdict or nonsuit.

Proceedings in case of death after interlocutory and before final judgment. 15 & 16 Vict. c. 76. s. 140.

251. If the plaintiff in any action happen to die after an interlocutory judgment and before a final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executor or administrator of such plaintiff; and if the defendant die after such interlocutory judgment and before final judgment therein obtained the said action shall not abate, if such action might be originally prosecuted or maintained against the executor or administrator of such defendant; and the plaintiff, or if he be dead after such interlocutory judgment his executors or administrators, shall and may have a writ of Revivor, in the form contained in the schedule (A.) to this Act annexed, marked No. 11., or to the like effect, against the defendant if living after such interlocutory judgment, or if he be dead then against his executors or administrators, to show cause why damages in such action should not be assessed and recovered by him or them; and if such defendant, his executors or administrators, shall appear at the return of such writ, and not show or allege any matter sufficient to arrest the final judgment, or shall make default, a writ of inquiry of damages shall be thereupon awarded, or the amount for which final judgment is to be signed shall be referred to the master as herein-before provided; and upon the return of the writ, or delivery of the order with the amount endorsed thereon, to the plaintiff, his executors or administrators, final judgment shall be given for the

said plaintiff, his executors or administrators, prosecuting such writ of revivor against such defendant, his executors or administrators respectively.

To compel continuance or abandonment of action in case of death. 17 & 18 Vict. c. 125. s. 92.

252. Where an action would but for the provisions of this Act have abated by reason of the death of either party, and the proceedings may be revived and continued under this Act, the defendant or person against whom the action may be so continued may apply by notice or otherwise to compel the plaintiff or person entitled to proceed with the action in the room of the plaintiff to proceed according to the provisions of this Act within such time as the court or judge shall order; and in default of such proceeding the defendant or other person against whom the action may be so continued as aforesaid shall be entitled to enter a suggestion of such default, and of the representative character of the person by or against whom the action may be proceeded with, as the case may be, and to have judgment for the costs of the action and suggestion against the plaintiff or against the person entitled to proceed in his stead, as the case may be, and in the latter case to be levied off the goods of the testator or intestate.

Marriage not to abate action. 15 & 16 Vict. c. 76. s. 141.

253. The marriage of a woman, plaintiff or defendant, shall not cause the action to abate, but the action may notwithstanding be proceeded with to judgment; and such judgment may be executed against the wife alone, or, by suggestion or writ of Revivor pursuant to this Act, judgment may be obtained against the husband and wife, and execution issue thereon; and in case of a judgment for the wife, execution may be issued thereupon by the authority of the husband, without any writ of Revivor or Suggestion; and if in any such action the wife shall sue or defend by attorney appointed by her when sole, such attorney shall have authority to continue the action or defence, unless such authority be countermanded by the husband, and the attorney changed according to the practice of the court.

Bankruptcy and insolvency of plaintiff, when not to abate action. 15 & 16 Vict. c. 76. s. 142.

254. The bankruptcy or insolvency of the plaintiff in any action which the assignees might maintain for the benefit of the creditors shall not be pleaded in bar to such action, unless the assignees shall decline to continue, and give security for the costs thereof upon an order of the court or judge to be obtained for that purpose, within such reasonable time as the court or judge may order, but the proceedings may be stayed until such election is made; and in case the assignees neglect or refuse to continue the action, and give such security within the time limited by the order, the defendant may within eight days after such neglect or refusal plead the bankruptcy or insolvency.

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Arrest of judgment and judgment Non obstante veredicto.

And with respect to the proceedings upon motions to arrest the judgment, and for judgment Non obstante veredicto, be it enacted as follows:

Upon motion in arrest of judgment Non obstante veredicto, omitted facts may, by leave of the court, be suggested. 15 & 16 Vict. c. 76. s. 143. 16 & 17 Vict. c. 113. s. 163.

255. No judgment shall be arrested, nor shall judgment be given Non obstante veredicto, by reason of the nonaverment of any alleged material fact or other cause, unless the party insisting on the objection shall satisfy the court that there has been an omission of some substantial matter of fact, whereby the said party may have been prejudiced in the merits of his case; and in such case the party whose pleading is alleged or adjudged to be therein defective may, by leave of the court, suggest the existence of the omitted fact or facts or other matter which, if true, would remedy the alleged defect; and such suggestion may be pleaded to by the opposite party within eight days after notice thereof, or such further time as the court or judge may allow; and the proceedings for trial of any issues joined upon such pleadings shall be the same as in an ordinary action.

Judgment to follow result of suggestion. 15 & 16 Vict. c. 76. s. 144.

256. If the fact or facts suggested be admitted or found to be true, the party suggesting shall be entitled to such judgment as he would have been entitled to if such fact or facts or allegations had been originally stated in such pleading and proved or admitted on the trial, together with the costs of and occasioned by the suggestion and proceedings thereon; but if such fact or facts be found untrue, the opposite party shall be entitled to his costs of and occasioned by the suggestion and proceedings thereon, in addition to any other costs to which he may be entitled.

Costs of abortive issues. 15 & 16 Vict. c. 76. s. 145.

257. Upon an arrest of judgment, or judgment Non obstante veredicto, the court shall adjudge to the party against whom such judgment is given the costs occasioned by the trial of any issues of fact arising out of the pleading for defect of which such judgment is given, upon which such party shall have succeeded; and such costs shall be set off against any money or costs adjudged to the opposite party, and execution may issue for the balance, if any.

Error and appeal.

And with respect to proceedings in error and on appeal, be it enacted as follows:

Error to be brought within six years. 15 & 16 Vict. c. 76. s. 146.

258. No judgment in any cause shall be reversed or avoided for any error or defect therein, unless error be commenced or brought and prosecuted with effect within six years after such judgment signed or entered of record.

Error may be brought by legal re-

259. If any person is or shall be entitled to bring error as heir or personal representative of any party, plaintiff or defendant,

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such person may, by leave of the court or a judge, enter a suggestion of the death, and that he is such legal representative, which suggestion shall be embodied in the memorandum of error hereinafter mentioned, and shall not be traversable, but shall only be subject to be set aside on application to the court or a judge, on motion, if untrue, and the like proceedings in error may thereupon be taken at the suit of such legal representative.

Suggestion of death and representative of a deceased party. 16 & 17 Vict. c. 113. s. 167.

260. If any person that is or shall be entitled to bring error as aforesaid is or shall be at the time of such title accrued within the age of twenty-one years, feme covert, non compos mentis, or beyond the seas, then such person shall be at liberty to bring error as aforesaid, so as such person commences or brings and prosecutes the same with effect within six years after coming to or being of full age, discovert, of sound memory, or return from beyond the seas; and if the opposite party shall, at the time of judgment signed or entered of record, be beyond the seas, then error may be brought, provided the proceedings be commenced and prosecuted with effect within six years after the return of such party from beyond the seas.

Proviso for disabilities. 15 & 16 Vict. c. 76. s. 147.

261. A writ of Error shall not be necessary or used in any cause, and the proceedings to error shall be a step in the cause, and shall be taken in manner herein-after mentioned.

Writ of Error not necessary. 15 & 16 Vict. c. 76. s. 148.

262. Either party alleging error in law may deliver to the master of the court a memorandum in writing, in the form contained in the schedule (A.) to this Act annexed, marked No. 13., or to the like effect, entitled in the court and cause, and signed by the party or his attorney, alleging that there is error in law in the record and proceedings, whereupon the master shall file such memorandum, and deliver to the party lodging the same a note of the receipt thereof; and a copy of such note, together with a statement of the grounds of error intended to be argued, may be served on the opposite party or his attorney.

Error in law how brought. 15 & 16 Vict. c. 76. s. 149.

263. Proceedings in error in law shall be deemed a supersedeas of execution from the time of the service of the copy of such note, together with the statement of the grounds of error intended to be argued until default in putting in bail, or an affirmance of the judgment, or discontinuance of the proceedings in error, or until the proceedings in error shall be otherwise disposed of without a reversal of the judgment: provided always, that if the grounds of error shall appear to be frivolous, the court or a judge, upon motion, may order execution to issue.

Error not supersedeas till service of the copy of the note and grounds of error. 15 & 16 Vict. c. 76. s. 150.

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Bail in error. 15 & 16 Vict. c. 76. s. 151.

264. Upon any judgment hereafter to be given in any of the said superior courts of common law in any action, execution shall not be stayed or delayed by proceedings in error, or supersedeas thereupon, without the special order of the court or a judge, unless the person in whose name such proceedings in error be brought, with two or, by leave of the court or a judge, more than two sufficient sureties, such as the court (wherein such judgment is or shall be given) or a judge shall allow of, shall within four clear days after lodging the memorandum alleging error, or after the signing of the judgment, whichever shall last happen, or before execution executed, be bound unto the party for whom any such judgment is or shall be given, by recognizance to be acknowledged in the same court, in double the sum adjudged to be recovered by the said judgment (except in case of a penalty, and in case of a penalty in double the sum really due, and double the costs), to prosecute the proceedings in error with effect, and also to satisfy and pay (if the said judgment be affirmed, or the proceedings in error be discontinued by the plaintiff therein), all and singular the sum or sums of money and costs adjudged or to be adjudged upon the former judgment, and all costs and damages to be also awarded for the delaying of execution, and shall give notice thereof to the defendant in error, or his attorney.

Suggestions instead of assignment of and joinder in error. 15 & 16 Vict. c. 76. s. 152.

265. The assignment of and joinder in error in law shall not be necessary or used, and instead thereof a suggestion to the effect that error is alleged by the one party and denied by the other may be entered on the judgment roll in the form contained in schedule (A.) to this Act annexed, marked No. 14., or to the like effect: provided that in case the defendant in error intends to rely upon the proceeding in error being barred by lapse of time, or by release of error, or other like matter of fact, he may give four days written notice to the plaintiff in error to assign error as heretofore instead of entering the suggestion; and he shall, within eight days, plead thereto the bar by lapse of time, or release of error, or other like matter of fact; and thereupon such proceedings may be had as heretofore.

Roll to be made up and suggestion entered by plaintiff in error. 15 & 16 Vict. c. 76. s. 153.

266. The roll shall be made up, and the suggestion last aforesaid entered by the plaintiff in error within ten days after the service of the note of the receipt of the memorandum alleging error, or within such other time as the court or a judge may order; and in default thereof, or of assignment of error in cases where an assignment is required, the defendant in error, his executors or administrators, shall be at liberty to sign judgment of non pros.

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Error brought by one of several persons against whom judgment has been given. 15 & 16 Vict. c. 76. s. 154.

267. In case error be brought upon a judgment given against several persons, and one or some only shall proceed in error, the memorandum alleging error and the note of the receipt of such memorandum, shall state the names of the persons by whom the proceedings are taken; and in case the other persons against whom judgment has been given decline to join in the proceedings in error the same may be continued, and the suggestion last aforesaid entered, stating the persons by whom the proceedings are brought without any summons and severance, or if such other persons elect to join then the suggestion shall state them to be and they shall be deemed as plaintiffs in error, although not mentioned as such in the previous proceedings.

Judgment roll to be brought into court instead of transcript. 15 & 16 Vict. c. 76. s. 155.

268. Upon such suggestion of error alleged and denied being entered, the cause may be set down for argument in the court of error in the manner heretofore used; and the judgment roll shall, without any writ or return, be brought by the master into the court of error in the Exchequer Chamber, before the justices, or justices and barons, as the case may be, of the other two superior courts of common law, on the day of its sitting, at such time as the judges shall appoint, either in term or in vacation; and the court of error shall and may thereupon review the proceedings, and give judgment as they shall be advised thereon; and such proceedings and judgment, as altered or affirmed, shall be entered on the original record; and such further proceedings as may be necessary thereon shall be awarded by the court in which the original judgment was given; provided, however, that in case of error to the high court of Parliament a transcript of the record shall be prepared and forwarded in the manner heretofore used.

Jurisdiction of courts of error over the proceedings. 15 & 16 Vict. c. 76. s. 156.

269. Courts of error shall have power to quash the proceedings in error in all cases in which error does not lie, or where they are taken against good faith, or in any case in which proceedings in error might heretofore have been quashed by such courts; and such courts shall in all respects have such jurisdiction over the proceedings as over the proceedings in error commenced by writ of error, and shall have authority to make an order for payment of interest for delay of execution, whether the judgment of the court from which error is brought be affirmed or reversed.

Court of error to have like powers with court below. 15 & 16 Vict. c. 76. s. 157.

270. Courts of error shall in all cases have power to give such judgment and award such process as the court from which error is brought ought to have done, without regard to the party alleging error.

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Proceedings in error in fact. 15 & 16 Vict. c. 76. s. 158.

271. Either party alleging error in fact may deliver to the master of the court a memorandum in writing, in the form contained in the Schedule (A.) to this Act annexed, marked No. 15., or to the like effect, entitled in the court and cause, and signed by the party or his attorney, alleging that there is error in fact in the proceedings, together with an affidavit of the matter of fact in which the alleged error consists; whereupon the master shall file such memorandum and affidavit, and deliver to the party lodging the same a note of the receipt thereof; and a copy of such note and affidavit may be served on the opposite party or his attorney, and such service shall have the same effect, and the same proceedings may be had thereafter, as prior to the commencement of the "Common Law Procedure Amendment Act (Ireland), 1853," were had after the service of the rule for allowance of a writ of error in fact.

Plaintiff may discontinue proceedings in error. 15 & 16 Vict. c. 76. s. 159.

272. The plaintiff in error, whether in fact or law, shall be at liberty to discontinue his proceedings by giving to the defendant in error a notice headed in the court and cause, and signed by the plaintiff in error or his attorney, stating that he discontinues such proceedings, and thereupon the defendant in error may sign judgment for the costs of and occasioned by the proceedings in error, and may proceed upon the judgment on which the error was brought.

Defendant may confess error, and consent to reversal of judgment. 15 & 16 Vict. c. 76. s. 160.

273. The defendant in error, whether in fact or law, shall be at liberty to confess error, and consent to the reversal of the judgment, by giving to the plaintiff in error a notice, headed in the court and cause, and signed by the defendant in error or his attorney, stating that he confesses the error, and consents to the reversal of the judgment, and thereupon the plaintiff in error shall be entitled to and may forthwith sign a judgment of reversal.

Death of plaintiff in error no abatement. 15 & 16 Vict. c. 76. s. 161.

274. The death of a plaintiff in error after service of the note of the receipt of the memorandum alleging error, with a statement of the grounds of error, shall not cause the proceedings to abate, but they may be continued as herein-after mentioned.

Providing for death of one of several plaintiffs in error. 15 & 16 Vict. c. 76. s. 162.

275. In case of the death of one of several plaintiffs in error, a suggestion may be made of the death, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the proceedings may thereupon be continued at the suit of and against the surviving plaintiff in error as if he were the sole plaintiff.

Proceedings upon death of sole plain-

276. In case of the death of a sole plaintiff or of several plaintiffs in error, the legal representative of such plaintiff or of the surviving

plaintiff may, by leave of the court or a judge, enter a suggestion of the death, and that he is such legal representative, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the proceedings may thereupon be continued at the suit of and against such legal representative as the plaintiff in error; and if no such suggestion shall be made the defendant in error may proceed to an affirmance of the judgment according to the practice of the court, or take such other proceedings thereupon as he may be entitled to.

tiff or of all the plaintiffs in error. 15 & 16 Vict. c. 76. s. 163.

Death of defendant in error no abatement. 15 & 16 Vict. c. 76. s. 164.

277. The death of a defendant in error shall not cause the proceedings to abate, but they may be continued as herein-after mentioned.

Proceedings upon death of one of several defendants in error. 15 & 16 Vict. c. 76. s. 165.

278. In case of the death of one of several defendants in error, a suggestion may be made of the death, which suggestion shall not be traversable, but only be subject to be set aside if untrue, and the proceedings may be continued against the surviving defendant.

Proceedings upon death of sole defendant or of all the defendants in error. 15 & 16 Vict. c. 76. s. 166.

279. In case of the death of a sole defendant or of all the defendants in error the plaintiff in error may proceed upon giving ten days notice of the proceedings in error, and of his intention to continue the same, to the representatives of the deceased defendants, or if no such notice can be given, then, by leave of the court or a judge, upon giving such notice to the parties interested as he or they may direct.

Marriage not to abate proceedings in error. 15 & 16 Vict. c. 76. s. 167.

280. The marriage of a woman, plaintiff or defendant in error, shall not abate the proceedings in error, but the same may be continued in like manner as herein-before provided with reference to the continuance of an action after marriage.

Grounds to be stated in rule nisi for new trial. 17 & 18 Vict. c. 125. s. 33.

281. In every rule nisi for a new trial or to enter a verdict or nonsuit, the grounds upon which such rule shall have been granted shall be shortly stated therein.

If rule nisi refused, party may appeal. 17 & 18 Vict. c. 125. s. 34.

282. In all cases of rules to enter a verdict or nonsuit upon a point reserved at the trial, if the rule to show cause be refused or granted, and then discharged or made absolute, the party decided against may appeal.

Appeal upon rule discharged or absolute. 17 & 18 Vict. c. 125. s. 35.

283. In all cases of motions for a new trial upon the ground that the judge has not ruled according to law, if the rule to show cause be refused, or if granted be then discharged or made absolute, the party decided against may appeal, provided any one of the judges dissent from the rule being refused, or, when granted, being discharged or made absolute, as the case may be, or provided the

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court in its discretion think fit that an appeal should be allowed; provided that where the application for a new trial is upon matter of discretion only, as on the ground that the verdict was against the weight of evidence or otherwise, no such appeal shall be allowed.

Courts of error to be courts of appeal. 17 & 18 Vict. c. 125. s. 36.

284. The Court of Exchequer Chamber and the House of Lords shall be courts of appeal for the purposes of this Act.

Notice of appeal. 17 & 18 Vict. c. 125. s. 37.

285. No appeal shall be allowed unless notice thereof be given in writing to the opposite party or his attorney, and to the master of the court, within four days after the decision complained of, or such further time as may be allowed by the court or a judge.

Bail. 17 & 18 Vict. c. 125. s. 38.

286. Notice of appeal shall be a stay of execution, provided bail to pay the sum recovered and costs, or to pay costs where the appellant was plaintiff below, be given in like manner and to the same amount as bail in error, within eight days after the decision complained of, or before execution delivered to the sheriff.

Form of appeal. 17 & 18 Vict. c. 125. s. 39.

287. The appeal herein-before mentioned shall be upon a case to be stated by the parties (and in case of difference to be settled by the court or a judge of the court appealed from), in which case shall be set forth so much of the pleadings, evidence, and the ruling or judgment objected to, as may be necessary to raise the question for the decision of the court of appeal.

Rule nisi granted on appeal, how disposed of. 17 & 18 Vict. c. 125. s. 40.

288. When the appeal is from the refusal of the court below to grant a rule to show cause, and the court of appeal grant such rule, such rule shall be argued and disposed of in the court of appeal.

Judgment of court of appeal. 17 & 18 Vict. c. 125. s. 41.

289. The court of appeal shall give such judgment as ought to have been given in the court below, and shall have power to remit the cause with such directions as they shall think proper; and all such further proceedings may be taken thereupon as if the judgment had been given by the court in which the record originated.

Powers of court of appeal as to costs and otherwise. 17 & 18 Vict. c. 125. s. 42.

290. The court of appeal shall have power to adjudge payment of costs and to order restitution, and they shall have the same powers as the court of error in respect of awarding process and otherwise.

Error upon award of trial de novo. 17 & 18 Vict. c. 125. s. 43.

291. Upon an award of a trial de novo by any one of the superior courts, or by the court of error, upon matter appearing upon the record, error may at once be brought, and if the judgment in such or any other case be affirmed in error, it shall be lawful for the court of error to adjudge costs to the defendant in error.

Payment of costs upon new trial on matter of fact. 17 & 18 Vict. c. 125. s. 43.

292. When a new trial is granted on the ground that the verdict was against evidence, the costs of the first trial shall abide the event, unless the court shall otherwise order.

And with respect to interpleader, be it enacted as follows:

Interpleader.

Interpleader may be granted, though titles have not a common origin. 23 & 24 Vict. c. 126. s. 12.

293. Where an action has been commenced in respect of a common law claim for the recovery of money or goods, or where goods or chattels have been taken or are intended to be taken in execution under process issued from any one of the superior courts, and the defendant in such action, or the sheriff or other officer, has applied for relief under the provisions of an Act made and passed in the session of Parliament held in the ninth and tenth years of the reign of Her present Majesty, intituled "An Act to enable courts of law "to give relief against adverse claims made upon persons having "no interest in the subject of such claims," it shall be lawful for the court or a judge to whom such application is made to exercise all the powers and authorities given to them by this Act in cases of interpleader, and the herein-before mentioned Act passed in the session of Parliament held in the ninth and tenth years of the reign of Her present Majesty, though the titles of the claimants to the money, goods, or chattels in question, or to the proceeds or value thereof, have not a common origin, but are adverse to and independent of one another.

Court or judge may direct sale of goods seized in execution. 23 & 24 Vict. c. 126. s. 13.

294. When goods or chattels have been seized in execution by a sheriff or other officer under process of the above-mentioned courts, and some third person claims to be entitled under a bill of sale or otherwise to such goods or chattels by way of security for a debt, the court or a judge may order a sale of the whole or part thereof, upon such terms as to payment of the whole or part of the secured debt or otherwise as they or he shall think fit, and may direct the application of the proceeds of such sale in such manner and upon such terms as to such court or judge may seem just.

Power to court or judge to decide summarily in certain cases. 23 & 24 Vict. c. 126. s. 14.

295. Upon the hearing of any rule or order calling upon persons to appear and state the nature and particulars of their claims, it shall be lawful for the court or judge, wherever from the smallness of the amount in dispute, or of the value of the goods seized, it shall appear to them or him desirable and right so to do, at the request of either party, to dispose of the merits of the respective claims of such parties, and to determine the same in a summary manner, upon such terms as they or he shall think fit to impose, and to make such other rules and orders therein, as to costs and all other matters, as may be just.

Special case may be stated where

296. In all cases of interpleader proceedings, where the question is one of law, and the facts are not in dispute, the court or judge

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facts undisputed. 23 & 24 Vict. c. 126. ss. 15, 16.

shall be at liberty, at their or his discretion, to decide the question without directing an action or issue, and, if they or he shall think it desirable, to order that a special case be stated for the opinion of the court, and error may be brought upon a judgment on such case, and the provisions of this Act relating to proceedings upon special cases, and the bringing of error thereon, shall extend to the proceedings upon such special case, and to the bringing of error thereon.

Judgment and decision when to be final. 23 & 24 Vict. c. 126. s. 17.

297. The judgment in any such action or issue as may be directed by the court or a judge in any interpleader proceedings, and the decision of the court or judge in a summary manner, shall be final and conclusive against the parties, and all persons claiming by, from, or under them.

General provisions to apply to interpleader.

298. The provisions of this Act relating to inspection, discovery, appeal, and otherwise shall extend to interpleader proceedings, mutatis mutandis, unless where the same shall not be applicable, or where otherwise specially provided by this Act; and the court or judge may, in relation to the service of any rule or order, exercise such or the like powers as are contained in the sixteenth, seventeenth, eighteenth, and nineteenth sections of this Act in relation to the service of writs in personal actions.

Rules, orders, &c. made in interpleader proceedings may be entered of record and made evidence. 23 & 24 Vict. c. 126. s. 18.

299. All rules, orders, matters, and decisions to be made and done in interpleader proceedings under this Act may, together with the declaration in the cause, if any, be entered of record, with a note in the margin expressing the true date of such entry, to the end that the same may be evidence in future times, if required, and to secure and enforce the payment of costs directed by any such rule or order; and every such rule or order so entered shall have the force and effect of a judgment in the superior courts of common law.

Summary procedure upon bills of exchange and promissory notes.

And with respect to summary procedure upon bills of exchange and promissory notes, be it enacted as follows:

Actions upon bills of exchange, &c. may in certain cases be commenced by writ of summons as form in Schedule (A.)

300. All actions upon bills of exchange or promissory notes commenced within six months after the same shall have become due and payable may be by writ of summons in the special form contained in Schedule (A.) No. 16. to this Act annexed, and endorsed as therein mentioned; and it shall be lawful for the plaintiff, on filing an affidavit of personal service of such writ within the jurisdiction of the court, or an order for leave to proceed, as hereinbefore provided, or, in the case of service substituted under the provisions of this Act, the order directing such substitution of ser-

vice, and an affidavit and such documents as may be necessary for the purpose of showing that the directions of such order have been complied with, and a copy of the writ of summons and the endorsements thereon, in case the defendant shall not have obtained leave to appear, and have appeared to such writ according to the exigency thereof, at once to sign final judgment, in the form in Schedule (A.) No. 17. to this Act annexed (on which judgment no proceeding in error shall lie), for any sum not exceeding the sum endorsed on the writ, together with interest, at the rate specified (if any), to the date of the judgment, and a sum for costs to be fixed by a general order to be made as herein-after mentioned, unless the plaintiff claim more than such fixed sum, in which case the costs shall be taxed in the ordinary way, and the plaintiff may upon such judgment issue execution forthwith.

Plaintiff, on filing affidavit of personal service, may at once sign final judgment as form in Schedule (A.)
18 & 19 Vict. c. 67. s. 1.

301. The court into which such writ shall be returnable, or a judge, shall, upon application within the period of twelve days from such service, give leave to appear to such writ, and to defend the action, on the defendant paying into court the sum endorsed on the writ, or upon affidavits satisfactory to the court or judge which disclose a legal or equitable defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the court or judge may deem sufficient to support the application, and on such terms as to security or otherwise as to the court or judge may seem fit.

Defendant showing a defence upon the merits to have leave to appear.
18 & 19 Vict. c. 67. s. 2.

302. After judgment the court or a judge may, under special circumstances, set aside the judgment, and, if necessary, stay or set aside the execution, and may give leave to appear to the writ, and to defend the action, if it shall appear to be reasonable to the court or judge so to do, and on such terms as to the court or judge may seem just.

Judge may, under special circumstances, set aside judgment.
18 & 19 Vict. c. 67. s. 3.

303. In all cases of summary procedure on bills of exchange and promissory notes under this Act, it shall be competent to the court or a judge to order the bill or note sought to be proceeded upon to be forthwith deposited with an officer of the court, and further to order that all proceedings shall be stayed until the plaintiff shall have given security for the costs thereof.

Judge may order bill to be deposited with officer of court in certain cases.
18 & 19 Vict. c. 67. s. 4.

304. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or nonpayment, or otherwise, by reason of such dishonour, as he has under this Act for the recovery of the amount of such bill or note.

Remedy for the recovery of expenses of noting non-acceptance of dishonoured bill.
18 & 19 Vict. c. 67. s. 5.

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Holder of bill of exchange may issue one summons against all or any of the parties to the bill.
18 & 19 Vict. c. 67. s. 6.

305. The holder of any bill of exchange or promissory note may, if he think fit, issue one writ of summons according to this Act, against all or any number of the parties to such bill or note, and such writ of summons shall be the commencement of an action or actions against the parties therein named respectively, and all subsequent proceedings against such respective parties shall be in like manner, so far as may be, as if separate writs of summons had been issued.

Ejectment.

And with respect to the action of ejectment, be it enacted as follows:

Ejectment to be commenced by writ of summons.
16 & 17 Vict. c. 113. s. 194.

306. Where any party shall claim possession of any lands, tenements, or hereditaments, and shall be desirous of proceeding by ejectment for the recovery of the same in any of the said superior courts of common law, such party shall commence any action for such purpose by a writ of summons, which writ shall be directed to the immediate tenant or any one tenant in possession, as defendant, with the addition of the words "and all persons concerned," and shall contain the description of the property sought to be recovered with reasonable certainty, and the county and the barony or parish in which the same is situated.

Form and duration of writ of ejectment.
15 & 16 Vict. c. 76. s. 169.

307. The writ shall state the names of all the persons in whom the title is alleged to be, and command the persons to whom it is directed to appear within sixteen days after service thereof in the court into which it is returnable, to defend the possession of the property sued for, or such part thereof as they may think fit, and it shall contain a notice that in default of appearance they will be turned out of possession; and the writ shall bear teste of the day on which it is issued, and shall be in force for three months, and shall be in the form contained in the Schedule (A.) to this Act annexed, marked No. 18., or to the like effect; and in cases of ejectment on the title the writ shall be endorsed with the particulars of the sum (if any) claimed as damages for the loss of the mesne rates and profits of the lands sought to be recovered; and in cases of ejectment for nonpayment of rent such writ shall be endorsed with full particulars of the rent due and of all credits to which the defendant shall be justly entitled; and the name and abode of the attorney issuing the same, or, if no attorney, the name and residence of the party shall be endorsed thereon, in like manner as herein-before enacted with reference to the endorsements on a writ of summons in a personal action; and the same proceedings may be had to ascertain whether the writ was issued by the authority of the attorney whose name was endorsed thereon,

and who and what the claimants are, and their abode, and as to staying the proceedings upon writs issued without authority, as in the case of writs in personal actions, and the provisions of the third section of this Act in relation to the rotation of writs shall be deemed to apply to and include writs of summons in ejectment.

Writ of ejectment for non-payment of rent, upon whom to be served.

308. The writ of summons in ejectment for nonpayment of rent shall be served on the tenant sought to be evicted, and on every person in possession or in receipt of the rents and profits of the land sought to be recovered, or any part thereof, and also on any mortgagee of such lands, whose mortgage shall have been registered within six calendar months from the perfection thereof, and also on the assignee of any such mortgagee whose assignment shall have been in like manner registered, or upon such person or persons as shall be directed by general orders to be made in the manner hereinafter provided.

Service of writ of ejectment. 15 & 16 Vict. c. 76. s. 170.

309. The writ shall be served in the same manner as an ejectment has heretofore been served, or in such manner as shall be directed by general orders to be made in the manner herein-after provided; and in case of vacant possession the writ may be served by posting a copy thereof upon the door of the dwelling house or other conspicuous part of the property; and the court or judge may, in relation to the service of such writ, exercise such or the like powers as are contained in the eighteenth, nineteenth, twentieth, and twenty-first sections of this Act, in relation to the service of writs in personal actions.

Appearance of persons named in the writ. 15 & 16 Vict. c. 76. s. 171.

310. The persons named as defendants in such writ, or any of them, shall be allowed to appear within the time appointed.

Appearance of persons not named. 15 & 16 Vict. c. 76. s. 172.

311. Any other person not named in such writ shall, by leave of the court or a judge, be allowed to appear and defend, on filing an affidavit showing that he is in possession of the land either by himself or his tenant.

Appearance and defence by landlord. 15 & 16 Vict. c. 76. s. 173.

312. Any person appearing to defend as landlord in respect of property whereof he is in possession only by his tenant shall state in his appearance that he appears as landlord; and such person shall be at liberty to set up any defence which a landlord appearing in an action of ejectment has heretofore been allowed to set up, and no other.

Notice to defend for part only.

313. Any person appearing to such writ shall be at liberty to limit his defence to a part only of the property mentioned in the

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15 & 16 Vict. c. 76. s. 174.

writ, describing that part with reasonable certainty in a notice intituled in the court and cause, and signed by the party appearing or his attorney; such notice to be served within four days after appearance upon the attorney whose name is endorsed on the writ, if any, and if none, then to be filed in the master's office; and an appearance without such notice confining the defence to part shall be deemed an appearance to defend for the whole; but a defence to an ejectment for nonpayment of rent shall be a defence for all the lands in the writ of summons mentioned, and in case a defendant shall desire to take defence for part only of the lands, upon the ground that such part was not included in the estate or interest sought to be evicted, he shall make a special application to the court for that purpose.

Want of certainty cured by particulars. 15 & 16 Vict. c. 76. s. 175.

314. Want of "reasonable certainty" in the description of the property, or part of it, in the writ or notice shall not nullify them, but shall only be ground for an application to the court or a judge for better particulars of the land claimed or defended, which the court or a judge shall have power to give in all cases.

Defence by persons not in possession. 15 & 16 Vict. c. 76. s. 176.

315. The court or a judge shall have power to strike out or confine appearances and defences set up by persons not in possession by themselves or their tenants.

Judgment for default of appearance or defence. 15 & 16 Vict. c. 76. s. 177.

316. In case no appearance shall be entered within the time appointed, or if an appearance be entered, but the defence be limited to part only, the plaintiffs shall be at liberty to sign a judgment that the person whose title is asserted in the writ shall recover possession of the land, or of the part thereof to which the defence does not apply; which judgment, if for all, may be in the form contained in the Schedule (A.) to this Act annexed marked No. 19, or to the like effect, and if for part may be in the form contained in the Schedule (A.) to this Act annexed marked No. 20, or to the like effect.

Issue how made up. 15 & 16 Vict. c. 76. s. 178.

317. In case an appearance shall be entered, an issue may at once be made up, without any pleadings, by the claimants or their attorney, setting forth the writ, and stating the fact of the appearance, with its date, and the notice limiting the defence, if any, of each of the persons appearing, so that it may appear for what defence is made, and directing the sheriff to summon a jury; and such issue, in case defence is made for the whole, may be in the form contained in Schedule (A.) to this Act annexed marked No. 21, or to the like effect, and in case defence is made for part,

may be in the form contained in the Schedule (A.) to this Act annexed marked No. 20, or to the like effect.

Special case may be stated. 15 & 16 Vict. c. 76. s. 179.

318. By consent of the parties, and by leave of the court or a judge, a special case may be stated according to the practice heretofore prescribed in reference to personal actions.

Trial of issue. 15 & 16 Vict. c. 76. s. 180.

319. The claimants may, if no special case be agreed to, proceed to trial upon the issue in the same manner as in other actions; and the particulars of the claim and defence, if any, or copies thereof, shall be annexed to the record by the claimants; and the question at the trial shall, except in the cases herein-after mentioned, be whether the statement in the writ of the title of the claimants is true or false, and if true then which of the claimants is entitled, and whether to the whole or part, and if to part then to which part of the property in question, and whether to any, and if any to what damages, by way of compensation, for loss of mesne rates and profits; and upon the trial of an ejectment for nonpayment of rent the amount of the rent due to the claimant shall be found by the jury, and the entry of the verdict may be made in the form contained in the Schedule (A.) to this Act annexed marked No. 22, or to the like effect, with such modifications as may be necessary to meet the facts.

16 & 17 Vict. c. 113. s. 202.

Verdict when title appears to have expired before trial. 15 & 16 Vict. c. 76. s. 181.

320. In case the title of the claimant shall appear to have existed as alleged in the writ, and at the time of service thereof, but it shall also appear to have expired before the time of trial, the claimant shall, notwithstanding, be entitled to a verdict according to the fact that he was so entitled at the time of bringing the action and serving the writ, and to a judgment for his costs of suit.

Trial may be ordered to take place in any county. 15 & 16 Vict. c. 76. s. 182.

321. The court or a judge may on the application of either party order that the trial shall take place in any county or place other than that in which the venue is laid; and such order being suggested on the record the trial may be had accordingly.

Nonappearance at trial. 15 & 16 Vict. c. 76. s. 183.

322. If the defendant appears and the claimant does not appear at the trial, the claimant shall be nonsuited; and if the claimant appears and the defendant does not appear the claimant shall be entitled to recover as heretofore, without any proof of his title; and in case of ejectment on the title shall be entitled to prove the amount of damages sustained by reason of the loss of the mesne rates and profits, and in case of an ejectment for nonpayment of rent, shall be entitled to prove the amount of rent actually due, and to have a verdict for the same with judgment for his costs of suit.

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Mesne rates may be recovered by ejectment to the day of trial.
23 & 24 Vict. c. 154. s. 77.

323. In all such ejectments as herein-after mentioned the jury shall be at liberty to give compensation for the loss of mesne rates and profits; in ejectments on the title in which mesne rates are claimed, from the commencement of the action, and in ejectments for nonpayment of rent, from the day up to which the rent claimed by the ejectment accrued due, and in both cases down to the day of trial.

Ascertainment of rent.
16 & 17 Vict. c. 113. s. 206.

324. In ejectment for nonpayment of rent, where judgment shall have gone by default, or the defendant shall not appear at the trial, it shall be sufficient for the purpose of ascertaining the amount of the rent due, and to satisfy the provisions of the statutes with respect to ascertaining the rent, that an affidavit be made by the plaintiffs, or one of them, or their or his agent, to the effect that an amount of rent not less than one year's rent, and specifying the same, was due at the time of the commencement of the action after all just allowances.

Special verdict and bill of exceptions.
15 & 16 Vict. c. 76. s. 184.

325. The jury may find a special verdict, or either party may tender a bill of exceptions.

Judgment and execution upon finding for claimant.
16 & 17 Vict. c. 113. s. 207.

326. Upon a finding for the claimant, judgment may be signed and execution issued for the recovery of possession of the property or such part thereof as the jury shall find the claimant entitled to and in case of ejectment on the title for such damages for loss of mesne rates and profits as shall be found by the said jury, and in case of ejectment for nonpayment of rent for recovery of so much rent as shall be found to be due, and costs, within such time, not exceeding the fifth day in term after the verdict, as the court or judge before whom the cause is tried shall order, and if no such order be made then on the fifth day in term after the verdict, or within fourteen days after such verdict, whichever first shall happen.

Judgment upon finding for defendant.
15 & 16 Vict. c. 76. s. 186.

327. Upon a finding for the defendants, or any of them, or upon a nonsuit, judgment may be signed and execution issued for costs against the claimants named in the writ, within such time, not exceeding the fifth day in term after the verdict or nonsuit, as the court or judge before whom the cause is tried shall order; and if no such order be made then on the fifth day in term after the verdict or nonsuit, or within fourteen days after such verdict or nonsuit, whichever shall first happen.

Execution for recovery of possession and costs may be

328. Upon any judgment in ejectment there may be either one or separate writs of execution for the recovery of the possession

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and for the damages or the rent ascertained to be due, and costs, at the election of the claimant.

joint and separate. 16 & 17 Vict. c. 113. s. 209.

329. In case of such an action being brought by some or one of several persons entitled as joint tenants, tenants in common, or coparceners, any joint tenant, tenant in common, or coparcener in possession may, at the time of appearance, or within four days after, give notice, in the same form as in the notice of a limited defence, that he or she defends as such and admits the right of the claimant to an undivided share of the property (stating what share), but denies any actual ouster of him from the property, and may within the same time file an affidavit stating with reasonable certainty that he or she is such joint tenant, tenant in common, or coparcener, and the share of such property to which he or she is entitled, and that he or she has not ousted the claimant; and such notice shall be entered in the issue in the same manner as the notice limiting the defence, and upon the trial of such an issue the additional question of whether an actual ouster has taken place shall be tried.

Defence by joint tenants, tenants in common, or coparceners. 15 & 16 Vict. c. 76. s. 188.

330. Upon the trial of such issue as last aforesaid, if it shall be found that the defendant is joint tenant, tenant in common, or coparcener with the claimant, then the question whether an actual ouster has taken place shall be tried, and unless such actual ouster shall be proved the defendant shall be entitled to judgment and costs; but if it shall be found either that the defendant is not such joint tenant, tenant in common, or coparcener, or that an ouster has taken place, then the claimant shall be entitled to such judgment for the recovery of possession and costs.

Trial and judgment in ejectment against joint tenants, tenants in common, and coparceners. 15 & 16 Vict. c. 76. s. 189.

331. If any person shall bring an action of ejectment, after a prior action of ejectment for the same premises has been or shall have been unsuccessfully brought by such person, or by any person through or under whom he claims, against the same defendant, or against any person through or under whom he defends, the court or a judge may, if they or he think fit, on the application of the defendant at any time after such defendant has appeared to the writ, order that the plaintiff shall give to the defendant security for the payment of the defendant's costs, and that all further proceedings in the cause shall be stayed until such security be given, whether the prior action has been or shall have been disposed of by discontinuance, or by nonsuit, or by judgment for the defendant.

Claimant in second ejectment for same premises against same defendant may be ordered to give security for costs. 17 & 18 Vict. c. 125. s. 93.

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Action not to abate by death.
15 & 16 Vict. c. 76. s. 190.

332. The death of a claimant or defendant shall not cause the action to abate, but it may be continued as herein-after mentioned.

Proceeding upon death before trial where right survives.
15 & 16 Vict. c. 76. s. 191.

333. In case the right of the deceased claimant shall survive to another claimant, a suggestion may be made of the death, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the action may proceed at the suit of the surviving claimant; and if such a suggestion shall be made before the trial, then the claimant shall have a verdict and recover such judgment as aforesaid, upon its appearing that he was entitled to bring the action either separately or jointly with the deceased claimant.

Proceedings upon death before trial where right does not survive.
15 & 16 Vict. c. 76. s. 192.

334. In case of the death before trial of one of several claimants whose right does not survive to another or others of the claimants, where the legal representative of the deceased claimant shall not become a party to the suit in the manner herein-after mentioned, a suggestion may be made of the death, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the action may proceed at the suit of the surviving claimant for such share of the property as he is entitled to and costs.

Proceedings upon death of one of several claimants having obtained a verdict.
15 & 16 Vict. c. 76. s. 193.

335. In case of a verdict for two or more claimants, if one of such claimants die before execution executed, the other claimant may, whether the legal right to the property shall survive or not, suggest the death in manner aforesaid, and proceed to judgment and execution for recovery of possession of the entirety of the property and the costs; but nothing herein contained shall affect the right of the legal representative of the deceased claimant or the liability of the surviving claimant to such legal representative; and the entry and possession of such surviving claimant under such execution shall be considered as an entry and possession on behalf of such legal representative in respect of the share of the property to which he shall be entitled as such representative, and the court may direct possession to be delivered accordingly.

Proceedings in case of death of claimant where right does not survive.
15 & 16 Vict. c. 76. s. 194.

336. In case of the death of a sole claimant, or, before trial, of one of several claimants whose right does not survive to another or others of the claimants, the legal representative of such claimant may, by leave of the court or a judge, enter a suggestion of the death, and that he is such legal representative, and the action shall thereupon proceed; and if such suggestion be made before the trial the truth of the suggestion shall be tried thereat, together with

the title of the deceased claimant, and such judgment shall follow upon the verdict in favour of or against the person making such suggestion as herein-before provided with reference to a judgment for or against such claimant; and in case such suggestion in the case of a sole claimant be made after trial and before execution, executed by delivery of possession thereupon, and such suggestion be denied by the defendant within eight days after notice thereof, or such further time as the court or a judge may allow, then such suggestion shall be tried; and if upon the trial thereof a verdict shall pass for the person making such suggestion, he shall be entitled to such judgment as aforesaid for the recovery of possession, and for the costs of and occasioned by such suggestion; and in case of a verdict for the defendant such defendant shall be entitled to such judgment as aforesaid for costs; and in case the said suggestion shall not be denied within the time aforesaid the said personal representative, on producing an affidavit of the service of the notice, shall be entitled to proceed to judgment and execution in his own name.

Proceedings upon death of one of several joint defendants. 15 & 16 Vict. c. 76. s. 195.

337. In case of the death, before or after judgment, of one of several defendants in ejectment who defend jointly, a suggestion may be made of the death, which suggestion shall not be traversable, but only be subject to be set aside if untrue, and the action may proceed against the surviving defendant to judgment and execution.

Upon death of all the defendants in ejectment before trial. 15 & 16 Vict. c. 76. s. 196.

338. In case of the death of a sole defendant, or of all the defendants in ejectment, before trial, a suggestion may be made of the death, which suggestion shall not be traversable, but only be subject to be set aside if untrue; and the claimants shall be entitled to judgment for recovery of possession of the property, unless some other person shall appear and defend within the time to be appointed for that purpose by the order of the court or a judge, to be made upon the application of the claimants; and it shall be lawful for the court or a judge, upon such suggestion being made and upon such application as aforesaid, to order that the claimants shall be at liberty to sign judgment within such time as the court or judge may think fit, unless the person then in possession, by himself or his tenant, or the legal representative of the deceased defendant, shall within such time appear and defend the action; and such order may be served in the same manner as the writ; and in case such person shall appear and defend the same, proceedings may be taken against such new defendant as if he had

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originally appeared and defended the action; and if no appearance be entered and defence made, then the claimant shall be at liberty to sign judgment pursuant to the order.

Upon death of all defendants in ejectment after verdict. 15 & 16 Vict. c. 76. s. 197.

339. In case of the death of a sole defendant or of all the defendants in ejectment after verdict, the claimants shall nevertheless be entitled to judgment as if no such death had taken place, and to proceed by execution for recovery of possession without suggestion or revivor, and to proceed for the recovery of the costs, in like manner as upon any other judgment for money, against the legal representatives of the deceased defendant or defendants.

Upon death before trial of defendant in ejectment, who defends separately for part. 15 & 16 Vict. c. 76. s. 198.

340. In case of the death before trial of one of several defendants in ejectment who defends separately for a portion of the property for which the other defendant or defendants do not defend, the same proceedings may be taken as to such portion as in the case of the death of a sole defendant, or the claimants may proceed against the surviving defendants in respect of the portion of the property for which they defend.

Upon death of defendant defending separately for property in respect of which others also defend. 15 & 16 Vict. c. 76. s. 199.

341. In case of the death before trial of one of several defendants in ejectment who defends separately in respect of property for which surviving defendants also defend, it shall be lawful for the court or a judge at any time before the trial to allow the person at the time of the death in possession of the property, or the legal representative of the deceased defendant, to appear and defend, on such terms as may appear reasonable and just, upon the application of such person or representative; and if no such application be made or leave granted the claimant suggesting the death in manner aforesaid may proceed against the surviving defendant or defendants to judgment and execution.

Claimant may discontinue by notice. 15 & 16 Vict. c. 76. s. 200.

342. The claimant in ejectment shall be at liberty at any time to discontinue the action as to one or more of the defendants by giving to the defendant or his attorney a notice headed in the court and cause and signed by the claimant or his attorney, stating that he discontinues such action; and thereupon the defendant to whom such notice is given shall be entitled to and may forthwith sign judgment for costs in the form contained in the Schedule (A.) to this Act annexed, marked No. 23, or to the like effect.

Discontinuance of action by one of several claimants.

343. In case one of several claimants shall be desirous to discontinue, he may apply to the court or a judge to have his name struck out of the proceedings, and an order may be made thereupon upon such terms as to the court or judge may seem fit,

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and the action shall thereupon proceed at the suit of the other claimants.

15 & 16 Vict. c. 76. s. 201.

Judgment for not proceeding to trial after notice.

15 & 16 Vict. c. 76. s. 202.

344. If after appearance entered the claimant, without going to the trial, allow the time allowed for going to trial by the practice of the court in ordinary cases after issue joined to elapse, the defendant in ejectment may give twenty days notice to the claimant to proceed to trial at the sittings or assizes next after the expiration of the notice; and if the claimant afterwards neglects to give notice of trial for such sittings or assizes, or to proceed to trial in pursuance of the said notice given by the defendant, and the time for going to trial shall not be extended by the court or a judge, the defendant may sign judgment in the form contained in the Schedule (A.) to this Act annexed, marked No. 24, and recover the costs of the defence.

Defendant may confess the action.

15 & 16 Vict. c. 76. s. 203.

345. A sole defendant or all the defendants in ejectment shall be at liberty to confess the action as to the whole or part of the property, by giving to the claimant a notice headed in the court and cause, and signed by the defendant or defendants, such signature to be attested by his or their attorney; and thereupon the claimant shall be entitled to and may forthwith sign judgment and issue execution for the recovery of possession and costs in the form in the Schedule (A.) to this Act annexed, marked No. 25, or to the like effect.

Confession by one of several defendants defending separately for part.

15 & 16 Vict. c. 76. s. 204.

346. In case one of several defendants in ejectment, who defends separately for a portion of the property for which the other defendant or defendants do not defend, shall be desirous of confessing the claimant's title to such portion, he may give a like notice to the claimant, and thereupon the claimant shall be entitled to and may forthwith sign judgment and issue execution for the recovery of possession of such portion of the property, and for the costs occasioned by the defence relating to the same, and the action may proceed as to the residue.

Confession by one of several defendants who defend for same property.

15 & 16 Vict. c. 76. s. 205.

347. In case one of several defendants in ejectment, who defends separately in respect of property for which other defendants also defend, shall be desirous of confessing the claimant's title, he may give a like notice thereof; and thereupon the claimant shall be entitled to and may sign judgment against such defendant for the costs occasioned by his defence, and may proceed in the action against the other defendants to judgment and execution.

Court or a judge may,

348. It shall and may be lawful for the court or a judge, in any action of ejectment on the title to be commenced after the

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in action of ejectment on the title, direct temporary bars to be waived. 19 & 20 Vict. c. 102. s. 89.

passing of this Act, to make an order directing temporary bars to be waived and the real title tried in such ejectment, in any case in which it shall be made to appear, to the satisfaction of such court or judge, that a decree or decretal order to the same effect would be pronounced by the Court of Chancery upon a bill filed for the purpose of having temporary bars waived, but upon such terms or conditions as to the said court or judge shall seem just.

Effect of judgment.

349. A judgment in an action of ejectment under this Act shall have no greater effect than a judgment in ejectment before the passing of an Act made in the session of Parliament holden in the thirteenth and fourteenth years of the reign of Her present Majesty, intituled "An Act for the regulation of process and practice in "the Superior Courts of Common Law in Ireland."

Error and bail in error in ejectment. 15 & 16 Vict. c. 76. s. 208.

350. Error may be brought in like manner as in other actions upon any judgment in ejectment, after a special verdict found by the jury, or a bill of exceptions, or by consent after a special case stated, but, except in the case of such consent as aforesaid, execution shall not be thereby stayed, unless the plaintiff in error shall, within four clear days after lodging the memorandum alleging error, or after the signing of the judgment, whichever shall last happen, or before execution executed, be bound unto the claimant who shall have recovered judgment in such action of ejectment in double the yearly value of the property and double the costs recovered by the judgment, with condition that if the judgment shall be affirmed by the court of error or the proceedings in error be discontinued by the plaintiff therein, then the plaintiff in error shall pay such costs, damages, and sum or sums of money as shall be awarded upon or after such judgment affirmed or discontinuance; and it shall be lawful for the court wherein execution ought to be granted upon such affirmation or discontinuance, upon the application of the claimant, to issue a writ to inquire as well of the mesne profits as of the damage by any waste committed after the first judgment in ejectment, which writ may be tested on the day on which it shall issue, and be returnable immediately after the execution thereof, and upon the return thereof judgment shall be given and execution awarded for such mesne profits and damages, and also for costs of suit.

On trials after bail found, judge shall not stay the execution, except by consent,

351. In all cases in which such security shall have been given as provided by the seventy-fifth section of the "Landlord and Tenant Law Amendment Act (Ireland), 1860," if upon the trial a verdict shall pass for the claimant, unless it shall appear to the judge before whom the same shall have been had that the finding of the jury was

contrary to the evidence, or that the damages given were excessive, such judge shall not, except by consent, make any order to stay judgment or execution, except on condition that within four days from the day of the trial the defendant shall actually find security, by the recognizance of himself and two sufficient sureties, in such reasonable sum as the judge shall direct, conditioned not to commit any waste, or act in the nature of waste, or other wilful damage, and not to sell or carry off any standing crops which may happen to be thereupon, from the day on which the verdict shall have been given to the day on which execution shall finally be made upon the judgment, or the same be set aside, as the case may be: provided always, that the recognizance last above mentioned shall immediately stand discharged and be of no effect in case proceedings in error shall be brought upon such judgment, and the plaintiff in error shall become bound in the manner herein-before provided.

or on tenants finding security. 15 & 16 Vict. c. 76. s. 215.

Bail in error to discharge such security.

352. All recognizances and securities entered into as last aforesaid may and shall be taken respectively in such manner and by and before such persons as are provided and authorized in respect of recognizances of bail upon actions and suits depending in the court in which any such action of ejectment shall have been commenced, but no action or other proceeding shall be commenced upon any such recognizance or security after the expiration of six months from the time when possession of the premises or any part thereof shall actually have been delivered to the landlord.

Recognizances to be taken as other recognizances of bail; actions on them limited. 15 & 16 Vict. c. 76. s. 216.

353. Nothing herein contained shall be construed to prejudice or affect any other right of action or remedy which landlords may possess in any of the cases herein-before provided for, otherwise than as herein-before expressly enacted.

Saving of former remedies. 15 & 16 Vict. c. 76. s. 218.

354. Where an action of ejectment shall be brought by any mortgagee, his heirs, executors, administrators, or assigns, for the recovery of the possession of any mortgaged lands, tenements, or hereditaments, and no suit shall be then depending in any of Her Majesty's Courts of Equity in Ireland, for or touching the foreclosing or redeeming of such mortgaged lands, tenements, or hereditaments, if the person having right to redeem such mortgaged lands, tenements, or hereditaments, and who shall appear and become defendant in such action, shall at any time, pending such action, pay unto such mortgagee, or, in case of his refusal, shall bring into court where such action shall be depending, all the principal moneys and interest due on such mortgage, and also all such costs as have been expended in any suit at law or in equity,

In ejectment by mortgagee the mortgagor's rendering the principal, interest, and costs in court shall be deemed a full satisfaction, and the court may compel the mortgagee to reconvey. 15 & 16 Vict. c. 76. s. 219.

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upon such mortgage (such money for principal, interest, and costs to be ascertained and computed by the court where such action is or shall be depending, or by the proper officer by such court to be appointed for that purpose), the moneys so paid to such mortgagee, or brought into such court, shall be deemed and taken to be in full satisfaction and discharge of such mortgage, and the court shall and may discharge every such mortgagor or defendant of and from the same accordingly; and shall and may, by rule of the same court, compel such mortgagee, at the costs and charges of such mortgagor, to assign, surrender, or re-convey such mortgaged lands, tenements, and hereditaments, and such estate and interest as such mortgagee has therein, and deliver up all deeds, evidences, and writings in his custody relating to the title of such mortgaged lands, tenements, and hereditaments, unto such mortgagor, who shall have paid or brought such moneys into the court, his heirs, executors, or administrators, or to such other person or persons as he or they shall for that purpose nominate or appoint.

Not to extend to cases where the right of redemption is controverted, or the money due not adjusted;

355. Nothing herein contained shall extend to any case where the person against whom the redemption is or shall be prayed shall (by writing under his hand, or the hand of his attorney, agent, or solicitor, to be delivered before the money shall be brought into such court of law to the attorney or solicitor for the other side,) insist either that the party praying a redemption has not a right to redeem, or that the premises are chargeable with other or different principal sums than what appear on the face of mortgage, or shall be admitted on the other side; or to any case where the right of redemption to the mortgaged lands and premises in question in any cause or suit shall be controverted or questioned by or between different defendants in the same cause or suit; or shall be any prejudice to any subsequent mortgage or subsequent incumbrance, anything herein contained to the contrary thereof in anywise notwithstanding.

or to prejudice any subsequent mortgage. 15 & 16 Vict. c. 76. s. 220.

Jurisdiction of courts and judges. 15 & 16 Vict. c. 76. s. 221.

356. The several courts and the judges thereof respectively shall and may exercise over the proceedings the like jurisdiction as heretofore exercised in the action of ejectment, so as to ensure a trial of the title and of actual ouster, when necessary only, and for all other purposes for which such jurisdiction may at present be exercised; and the provisions of all statutes not hereby repealed, and not inconsistent with the provisions of this Act, and which may be applicable to the mode of proceeding under this Act, shall remain in force and be applied thereto.

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357. In the case of any ejectment for a forfeiture for breach of a covenant or condition to insure against loss or damage by fire, the court or a judge shall have power, upon motion, to give relief in a summary manner, but subject to appeal as herein-after mentioned, in all cases in which such relief may now be obtained in the Court of Chancery under the provisions of an Act passed in session of Parliament held in the twenty-second and twenty-third years of the present reign, intituled "An Act to further amend the Law of Property, and to relieve Trustees," and upon such terms as would be imposed in such court.

Relief against forfeiture for not insuring. 23 & 24 Vict. c. 126. s. 2. 22 & 23 Vict. c. 35.

358. Where such relief shall be granted the court or a judge shall direct a minute thereof to be made by endorsement on the lease or otherwise.

Minute of relief granted. 23 & 24 Vict. c. 126. s. 3.

359. Any order made by a judge upon an application for relief under the provisions of the last two preceding sections shall be subject to an appeal to the court, and may be discharged, varied, or set aside by the court, upon such terms as the court shall think fit, on application made thereto by any party dissatisfied with such order.

Appeal to the court from order of judge. 23 & 24 Vict. c. 126. s. 4.

360. It shall be lawful for the party against whom the court makes any rule or order in respect of such relief to appeal from such rule or order, and the courts of error shall be the courts of appeal for this purpose, and every such appeal shall be subject to the like provisions as herein-before provided in relation to appeals from rules of the court upon motions for new trials, or to enter a verdict or nonsuit by sections 285, 286, 287, 289, and 290 of this Act.

Power to appeal from order of court. 23 & 24 Vict. c. 126. s. 4.

361. The proof of title in any one or more several claimants in ejectment shall be sufficient to entitle a verdict to be entered for such claimant or claimants, and it shall not be necessary to produce or prove upon any trial of an ejectment the affidavit of service of the writ of summons.

Proof of title. 16 & 17 Vict. c. 113. s. 203.

Action for replevin of goods.

And with respect to the proceedings for recovery of goods and chattels by way of replevin:

362. Where any party whose goods or chattels have been taken or distrained shall dispute the validity of such taking or distress, and shall be desirous of proceeding for the recovery of such goods and chattels by replevin in any of the said superior courts, such party may commence a personal action for the recovery of the goods or chattels so taken or distrained by a writ of summons, which writ of summons shall, in addition to any particulars herein-before required in an ordinary writ of summons, state the particulars of the property taken or distrained, and the place where such

Action for replevin to be commenced by writ of summons. 13 & 14 Vict. c. 18. s. 11.

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taking, seizure, or distress shall have been made, and shall be served by delivering a copy or copies thereof to the defendant or defendants, or to any agent or other person acting for him or them in making such seizure or distress, or in keeping the goods and chattels so taken or distrained, in the manner herein-before provided in respect of an ordinary writ of summons.

Plaintiff may sue out also a writ of Replevin. 16 & 17 Vict. c. 113. s. 229.

363. When any such action shall have been so commenced it shall be lawful for the plaintiff therein to sue out of the court in which such action shall be instituted a writ, to be called a writ of Replevin, in the form No. 26. in the Schedule (A.) to this Act annexed, directed to the sheriff of the county in which such goods and chattels shall be under seizure or distress, requiring him to replevy the said goods and chattels, and the said sheriff shall and he is hereby required, upon good security (by the bond, the plaintiff, and two responsible persons as sureties, conditioned as usual in such cases) being given to him in double the amount of the value of the property taken or distrained, to execute such writ, and to return the said writ, with a correct and proper statement endorsed thereon of the manner in which the same shall have been executed, or the cause why the same has not been executed, to the court out of which the same shall have issued within eight days, exclusive of any days appointed to be observed and kept as holidays, next after such writ shall have been delivered to him: provided always, that the value of the property so taken or distrained shall be ascertained by the said sheriff in like manner as the value of goods distrained is now ascertained by law by the sheriff in taking security in replevins, and that the said bonds shall be assignable by the sheriff under like circumstances and in like manner, and shall be available to the assignee thereof, as by law now or hereafter authorized in respect of replevin bonds.

If plaintiff in replevin be non-prossed or nonsuited, defendant entitled to judgment and execution for his rent. 16 & 17 Vict. c. 113. s. 230.

364. If the plaintiff in any such action for replevin of a distress made for rent shall be non-prossed for not filing his declaration, it shall be lawful for the defendant to file a suggestion in the nature of a declaration for rent, praying the court to inquire the cause of the distress; and thereupon, or in case judgment be given for the defendant on demurrer, it shall be lawful for the court to issue a writ of inquiry to the sheriff of the county wherein the distress was taken, or to the master of the court, to inquire touching the amount of rent in arrear at the time of such distress being taken, and the value of the goods or chattels distrained, and such inquiry shall be taken in the manner herein-before provided upon judgment by default in case of unliquidated demands, and upon the return

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of such inquisition the defendant shall have judgment and execution to recover against the plaintiff the arrears of rent, whether the value of the goods and chattels distrained shall amount to so much or not, with his costs of suit in that behalf incurred; and in case the said plaintiff shall be non-suit after issue joined, or if the verdict shall be given against the plaintiff, then the jurors impanneled to try such issue shall, at the prayer of the defendant, inquire the amount of rent due and the value of the goods and chattels distrained, and the defendant shall have judgment and execution for such arrears, whether the value of the said goods and chattels shall amount to so much or not, together with his costs of suit in that behalf incurred: provided always, that nothing herein contained shall in any manner alter or affect the liability of the sureties in the replevin bond.

19 & 20 Vict. c. 102. s. 101.

Payment into court in replevin. 23 & 24 Vict. c. 126. ss. 23 and 24.

365. The plaintiff in replevin may in answer to an avowry pay money into court in satisfaction in like manner and subject to the same proceedings as to costs and otherwise as upon a payment into court by a defendant in other actions, but such payment shall not, nor shall the acceptance thereof by the defendant in satisfaction, work a forfeiture of the replevin bond.

Real actions.

And with respect to the procedure in real actions, be it enacted as follows:

Dower, writ of right of dower, and quare impedit abolished as real actions, and to be commenced by writ of summons. 23 & 24 Vict. c. 126. s. 26.

366. No writ of right of dower or writ of dower unde nihil habet, and no plaint for free bench or dower in the nature of any such writ, and no quare impedit shall be brought after the commencement of this Act in any court whatsoever; but where any such writ, action, or plaint would now lie, either in a superior or in any other court, an action may be commenced by writ of summons returnable into the Court of Common Pleas, in the same manner and form as the writ of summons in an ordinary action; and upon such writ shall be endorsed a notice that the plaintiff intends to declare in dower, or for free bench, or in quare impedit, as the case may be.

Writ, and all proceedings thereupon, to be same as in ordinary actions. 23 & 24 Vict. c. 126. s. 27.

367. The service of the writ, appearance of the defendant, proceedings in default of appearance, pleadings, judgment, execution, and all other proceedings and costs upon such writ, shall be subject to the same rules and practice, as nearly as may be, as the proceedings in an ordinary action commenced by writ of summons; and the provisions of this Act shall apply to the writ and pleadings thereupon.

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Error on special case.

Error may be brought on a special case.
17 & 18 Vict. c. 125. s. 32.

And with respect to error on a judgment upon a special case, be it enacted as follows:

368. Error may be brought upon a judgment upon a special case in the same manner as upon a judgment upon a special verdict, unless the parties agree to the contrary; and the proceedings for bringing a special case before the court of error shall, as nearly as may be, be the same as in the case of a special verdict; and the court of error shall either affirm the judgment or give the same judgments as ought to have been given in the court in which it was originally decided, the said court of error being required to draw any inferences of fact from the facts stated in such special case which the court where it was originally decided ought to have drawn.

Miscellaneous provisions.

Injunctions and orders to stay proceedings to have a specific effect.
15 & 16 Vict. c. 76. s. 226.

And whereas it is expedient that injunctions and orders to stay proceedings should be rendered more effectual, be it enacted as follows:

369. In case any action, suit, or proceeding in any court of law or equity shall be commenced, sued, or prosecuted in disobedience of and contrary to any writ of injunction, rule, or order of any of the superior courts of law and equity at Dublin, or of any judge thereof in any other court than that by or in which such injunction may have been issued, or rule or order made, upon the production to any such other court or judge thereof of such writ of injunction, rule, or order, the said other court (in which such action, suit, or proceeding may be commenced, prosecuted, or taken), or any judge thereof, shall stay all further proceedings contrary to any such injunction, rule, or order, and thenceforth all further and subsequent proceedings shall be utterly null and void to all intents and purposes: provided always, that nothing herein contained shall be held to diminish, alter, abridge, or vary the liability of any person or persons commencing, suing, or prosecuting any such action, suit, or proceeding contrary to any injunction, rule, or order of either of the courts aforesaid, to any attachment, punishment, or other proceeding to which any such person or persons are, may, or shall be liable in cases of contempt of either of the courts aforesaid in regard to the commencing, suing, or prosecuting such action, suit, or proceeding.

False evidence.
17 & 18 Vict. c. 125. s. 89.

370. Any person who shall upon any examination upon oath or affirmation, or in any affidavit in proceedings under this Act, wilfully and corruptly give false evidence, or wilfully and corruptly swear or affirm anything which shall be false, being convicted thereof, shall be liable to the penalties of wilful and corrupt perjury.

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Courts may appoint sittings.
17 & 18 Vict. c. 125. s. 95.

371. The superior courts may appoint and hold sittings either in banco or for the trial of issues in fact by judge or jury at any time or times, whether in term or vacation, not being between the first of August and the twentieth of October.

Amendments.
15 & 16 Vict. c. 76. s. 222.

372. It shall be lawful for the superior courts of common law and every judge thereof, and any judge sitting at nisi prius, at all times to amend all defects and errors in any writ, pleading, record, or other proceeding in civil causes, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not; and all such amendments may be made in such manner as shall be thereby directed, and with or without costs, and upon such terms as to the court or judge may seem fit; and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made, if duly applied for; and when such amendment shall be made at nisi prius, or upon an inquiry, the order shall be endorsed upon the record or writ, and all pleadings or other records of the court which it may be necessary to amend in conformity therewith shall be amended accordingly.

The Lord Lieutenant may direct all or part of this Act to extend to any court of record.
17 & 18 Vict. c. 125. s. 105.

373. It shall be lawful for the Lord Lieutenant of Ireland from time to time, by an Order in Council, to direct that all or any part of the provisions of this Act, or of the several orders to be made in pursuance thereof, shall apply to all or any court or courts of record in Ireland; and within one month after such order shall have been made and published in the "Dublin Gazette," such provisions and orders respectively shall extend and apply in manner directed by such order, and any such order may be in like manner from time to time altered and annulled; and in and by any such order the Lord Lieutenant may direct by whom any powers or duties incident to the provisions applied under this Act shall and may be exercised with respect to matters in such court or courts, and may make any orders or regulations which may be deemed requisite for carrying into operation in such court or courts the provisions so applied.

General rules may be made by the judges.
16 & 17 Vict. c. 113. s. 233.

374. It shall be lawful for the judges of the said courts, or any seven or more of them, whereof two shall be chief judges, from time to time to make all such general rules and orders for the effectual execution of this Act, and the "Mercantile Law Amendment Act, 1856," and any Act or Acts or any part of any Act or Acts which are now or shall be hereafter in force relating to the pleading, practice, or procedure of the Courts of Common Law in Ireland,

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and for making such alterations in the mode of pleadings in the said courts, and in the mode of entering and transcribing pleadings, judgments, and other proceedings in actions at law, and in the time and manner of objecting to errors in pleadings and other proceedings, and in the mode of verifying pleas, and in obtaining final judgment without trial in certain cases, and such regulations as to the payment of costs, and for apportioning the costs of issues, and for fixing the costs to be allowed for and in respect of the matters herein contained or prescribed by such general orders, and for enforcing the performance thereof, and for settling a scale of expenses or remuneration to be allowed to witnesses, and for the purpose of enforcing uniformity of practice and pleading in the said courts, and of practice in the offices thereof, and of ensuring, as far as may be practicable, an equal division of the business amongst the said courts as in their judgment shall be necessary or proper, and for that purpose to meet from time to time as occasion may require; and if any difference shall appear to exist in the practice of the said courts and the offices thereof, it shall be lawful for the lord chief justice of the Court of Queen's Bench to summon a meeting of the judges, and thereupon the said judges shall have full power by a general order or orders to be made by any seven or more of them, whereof two shall be chief judges, to determine what the practice in all the said courts and offices thereof shall thenceforward be; and all such rules and orders as they shall so make shall be valid and effectual, and shall be observed in each of the said courts and the offices thereof, until varied or altered by the like authority, anything in this Act to the contrary notwithstanding; and any expenses which the judges shall certify (as now required with reference to incidental expenses) to have been properly incurred in giving effect to the provisions of this Act shall be charged and paid in like manner and as part of the incidental expenses of the said courts: provided that nothing herein contained shall be construed to restrain the authority or limit the jurisdiction of the said courts or the judges thereof to make rules or orders, or otherwise to regulate and dispose of the business therein.

New forms of writs and other proceedings. 15 & 16 Vict. c. 76. s. 224.

375. Such new or altered writs and forms of proceedings may be issued, entered, and taken as may by the judges of the said courts, or any seven or more of them, of whom two shall be the chief judges, be deemed necessary or expedient for giving effect to the provisions herein-before contained and the provisions of the "Mercantile Law Amendment Act, 1856," and in such forms as the judges of the said courts respectively shall from time to time think fit to order; and such writs and proceedings shall be acted

upon and enforced in such and the same manner as writs and proceedings of the said courts are now acted upon and enforced, or as near thereto as the circumstances of the case will admit; and any existing writ or proceeding the form of which shall be in any manner altered in pursuance of this Act shall nevertheless be of the same force and virtue as if no alteration had been made therein, except so far as the effect thereof may be varied by this Act. A.D. 1869.

376. Every judge of the superior courts may sit at chambers, and every such judge to whatever court he may belong shall have equal jurisdiction, power, and authority to transact out of court, at chambers, on circuit, and elsewhere, such business relating to any suit or proceeding depending in any of the superior courts over which the said courts have a common jurisdiction as may according to the course and practice of the court be so transacted by a single judge, or relating to the granting of writs of Certiorari or Habeas corpus, or the admitting of prisoners on criminal charges to bail, or the issuing of extents or other process for the recovery of debts due to the Crown, or relating to any other matter, in like manner as if the judge so transacting the same had been a judge of the court to which the same by law belongs, with power of appeal from any order to be made by a judge at chambers by motion to the proper court for the purpose. Judges may transact business at chambers. 11 Geo. 4. & 1 Will. 4. c. 70. Eng. 1 & 2 Vict. c. 45. Eng.

377. It shall and may be lawful to and for the judges of each of the said courts from time to time to make such rules and orders for the government and conduct of the ministers and officers of their respective courts, in and relating to the distribution and performance of the duties and business to be done and performed in the execution of this Act, as such judges may think fit and reasonable: provided always, that no additional charge be thereby imposed on the suitors. Rules may be made by each court for government of its officers. 15 & 16 Vict. c. 76. s. 225.

378. The enactments contained in sections 107, 182, 193 of this Act shall apply and extend to every court of civil judicature in Ireland; and the enactments contained in sections 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, and 370 shall apply and extend to all courts of judicature, as well criminal as others, and to all persons having, by law or consent of parties, authority to hear, receive, and examine evidence. Enactments of certain sections to apply to all civil and criminal courts in Ireland.

379. From and after the commencement of this Act the several Acts and parts of Acts set forth in the Schedule (C.) to this Act annexed, and to the extent to which such Acts or parts of Acts are by such schedule expressed to be repealed, are hereby repealed, Repeal of former Acts.

A.D. 1869.

except as to anything done before the commencement of this Act, and except so far as may be necessary for the purpose of supporting and continuing any proceeding heretofore taken upon any action brought before the commencement of this Act, and except as to the recovery or application of any penalty for any offence which shall have been committed before the commencement of this Act, and except so far as the said Acts or parts of Acts, or any part thereof, are or is incorporated in "The Probates and Letters of Administration Act (Ireland) 1857," and in a certain Act passed in the session of Parliament holden in the twentieth and twenty-first years of the reign of Her present Majesty, intituled "An Act to alter the "constitution and amend the procedure of the Court of Exchequer "Chamber in Ireland," in relation to proceedings in the Court of Exchequer Chamber other than those specially provided for by this Act.

This Act not to affect "The Common Law Procedure Amendment Act (Ireland), 1864," as to the county of Cork juries.

380. Nothing in this Act contained shall be deemed or taken to repeal an Act passed in the session of Parliament held in the twenty-seventh and twenty-eighth years of Her present Majesty, intituled "The Common Law Procedure Amendment Act (Ireland), 1864," as to county of Cork juries; and the clauses in the said Act contained referring to "The Common Law Procedure Act (Ireland), 1853," shall be deemed to apply to this Act, mutatis mutandis.

Clause E. Schedule of law fund duties.

The several duties set forth in Schedule (D.) to this Act annexed shall be the respective law fund duties on the proceedings in actions in the said superior courts of law in Ireland, and shall be in lieu and stead of the existing duties in respect of the same or the like subject matter, and the like penalties, forfeitures, and remedies for the enforcement and recovery of the same shall attach upon the said duties as previously existed in respect of the law fund duties heretofore in force.

And with respect to the interpretation of words in this Act:

Interpretation of terms. 16 & 17 Vict. c. 113. s. 4.

381. In the construction of this Act the word "court" shall be understood to mean any one of the superior courts of common law at Dublin in which any action is brought; and the word "judge" shall be understood to mean a judge or baron of any of the said courts; and the word "action" shall, except where inconsistent with the context, be understood to mean any personal action brought by writ of summons in any of the said courts; and the word "master" shall be understood to mean a master of any of the said courts; and no part of the United Kingdom of Great

Britain and Ireland, nor the Islands of Man, Guernsey, Jersey, Alderney, or Sark, nor any Islands adjacent to any of them, being part of the dominions of Her Majesty, shall be deemed to be "beyond the seas" within the meaning of this Act; and the word "county" shall be taken to extend to and include, where necessary and consistent, any city, county of a city, or county of a town or city, and county of any place, as the case may be; and the word "party" or "person" shall extend to and include any corporation or other public body; and the word "affidavit" shall include an affirmation or declaration made by any person who is empowered to give evidence by affirmation or declaration in lieu of oath; and no provision requiring the affidavit of or any act to be done by the attorney, or the signature of attorney or counsel or service on the attorney, shall apply to cases where the plaintiff or defendant shall sue or defend in person, but all such acts shall be done by and notices given to the party so suing or defending in person; and wherever in this Act, in describing or referring to any person or party, matter or thing, any word importing the singular number or masculine gender is used, the same shall be understood to include and shall be applicable to several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing, unless it otherwise be provided, or there be something in the subject or context repugnant to such construction. A.D. 1869.

382. In citing this Act in any instrument, document, pleading, proceeding, or Act of Parliament it shall be sufficient to use the expression "The Common Law Procedure Act (Ireland), 1869." Short title.

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

No. 1.

Writ where the defendant resides within the jurisdiction.

Victoria, by the grace of God, &c.

To *C.D.* of in the county of merchant.

We command you, that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in Our court of in an action at the suit of *A.B.*; and take notice, that in default of your so doing the said *A.B.* may proceed therein to judgment and execution. Witness the seal of Our Superior Courts of Common Law hereunto set at Dublin, the day of in the year of our Lord 1864.

Memorandum to be subscribed on the writ.

N.B.—The writ is to be served within [*six*] calendar months from the date thereof, or, if renewed, from the date of such renewal, including the day of such date, and not afterwards.

Endorsement to be made on the writ before service thereof.

This writ was issued by *E.F.* of attorney for the said plaintiff, *or* this writ was issued in person by *A.B.*, who resides at

[*Mention the city, town, or parish, and also the name of the street and number of the house of the plaintiff's residence, if any such, and his description.*]

Endorsement to be made on the writ after service thereof.

This writ was served by *X.Y.* on *L.M.* [the defendant, *or* one of the defendants] on Monday the day of 18 .

(Signed) *X.Y.*

No. 2.

Writ where the defendant, being a British subject, resides out of the jurisdiction.

Victoria, by the grace of God, &c.

To *C.D.* of in the county of

We command you, that within

[*Here insert a sufficient number of days within which the defendant might appear, with reference to the distance he may be at from Ireland*]

days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in Our court of in an action at the suit of *A.B.*; and take notice, that in default of your so doing the said *A.B.* may, by leave of the court or a judge, proceed therein to judgment and execution. Witness, &c.

Memorandum to be subscribed on the writ.

N.B.—This writ is to be served within [*six*] calendar months from the date thereof, or if renewed, from the date of such renewal, including the day of such date, and not afterwards.

Endorsement to be made on the writ before the service thereof.

This writ is for service out of the jurisdiction of the court, and was issued by *E.F.* of attorney for the said plaintiff, *or* this writ was issued in person by *A.B.*, who resides at

[*Mention the city, town, or parish, and also the name of the street and number of the house of the plaintiff's residence, if any such.*]

The endorsement required by the eleventh section should be made on this writ, but should allow the defendant the time limited for appearance to pay the debt and costs.

No. 3.

Writ where the defendant, not being a British subject, resides out of the jurisdiction.

Victoria, by the grace of God, &c.

To *C.D.* late of in the county of

We command you, that within

[*Here insert a sufficient number of days within which the defendant might appear, with reference to the distance he may be at from Ireland*]

days after notice of this writ is served on you, inclusive of the day of such service, you do cause an appearance to be entered for you in Our court of in an action at the suit of *A.B.*; and take notice, that in default of your so doing the said *A.B.* may, by leave of the court or a judge, proceed therein to judgment and execution. Witness, &c.

A.D. 1869.

Memorandum to be subscribed on the writ.

N.B.—Notice of this writ is to be served within [*six*] calendar months from the date thereof, including the day of such date, and not afterwards.

Indorsements as in other cases.

Notice of the foregoing writ.

To *G.H.* late of [*Mullingar in the county of Westmeath*], *or* now residing at [*Paris in France*].

Take notice, that *A.B.* of in the county of Ireland, has commenced an action at law against you *C.D.* in Her Majesty's court of by a writ returnable into that court, dated the day of A.D. 18 ; and you are required within days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action by causing an appearance to be entered for you in the said court to the said action; and in default of your so doing the said *A.B.* may, by leave of the court or a judge, proceed thereon to judgment and execution.

[*Here state amount of claim as required by the eleventh section, but allowing the defendant the time limited for appearance to pay debt and costs.*]

(Signed) *A.B.* of &c.
or
E.F. of &c.
Attorney for *A.B.*

No. 4.

Special indorsement.

[*After the indorsement required by the eleventh section of this Act, this special indorsement may be inserted.*]

The following are the particulars of plaintiff's claim:

	£	s.	d.
1859.—June 20. Half year's rent to this day of house and premises in Grafton Street, Dublin - - -	25	10	0
Sept. 12. Ten sacks of flour, at 40*s.* - - -	20	0	0
Dec. 1. Money received by defendant - -	17	0	0
	62	10	0
Paid - - - -	15	0	0
Balance due - -	47	10	0

Or

To butcher's meat supplied between the 1st of January 1859 and the 1st of January 1860 - - - - - - - £52

Paid - - - - 20

Balance - - - £32

A.D. 1869.

[*If any account has been delivered, it may be referred to, with its date, or the plaintiff may give such a description of his claim as in a particular demand, so as to prevent the necessity of an application for further particulars.*]

Or,

£50 principal and interest due on a bond dated the day of conditioned for the payment of 100*l.*

Or,

£90 principal and interest due on a covenant contained in a deed dated the day of to pay 100*l.* and interest.

Or,

A penalty of 50*l.* under the Statute 26 Vict. c. 29.

Or,

£85 on a bill of exchange for 100*l.*, dated the 2d February 1864, accepted *or* drawn, *or* endorsed by the defendant.

Or,

£50 on a guarantee, dated the 1st of January 1863, whereby the defendant guaranteed the due payment by *E.F.* of goods supplied or to be supplied to him.

[*To any of the above may be added, in cases where interest is payable,* "*the plaintiff also claims interest on l. of the above sum from the date of the writ until judgment.*"]

N.B.—Take notice, that if a defendant served with this writ within the jurisdiction of the court do not appear according to the exigency thereof, the plaintiff will be at liberty to sign final judgment for any sum not exceeding the sum above claimed (with interest at the rate specified), and the sum of l. for costs, and issue execution at the expiration of eight days from the last day for appearance.

No. 5.

Judgment for default of appearance by defendant residing within the jurisdiction when the writ is specially endorsed.

In the Queen's Bench:

On the day of A.D. 1869.

[*Day of signing the judgment.*]

Ireland, to wit, } *A.B.* in his own person (*or* by *X.Y.* his attorney) sued out a writ of summons against *C.D.*, endorsed according to "The Common Law Procedure Act (Ireland), 1866," as follows:

[*Here copy special endorsement.*]

And the said *C.D.* has not appeared: Therefore, it is considered that the said *A.B.* recover against the said *C.D.* l. together with l. for costs of suit.

A.D. 1869.

No. 6.

The issue on a question or questions of fact without pleadings.

In the Queen's Bench:

The day of in the year of our Lord 18 .

county of Leitrim, to wit. } Whereas *A.B.* has sued *C.D.*, and affirms and denies

[*Here state the question or questions of fact to be tried.*]

And it has been ordered by the Hon. Mr. Justice , according to "The Common Law Procedure Act (Ireland), 1866," that the said question shall be tried by a jury: Therefore let the same be tried accordingly.

No. 7.

Bill of exceptions.

In the Queen's Bench:

Monday, the 20th day of July A.D. 1869.

A.B. plaintiff. *C.D.* defendant. } The issues in fact in the annexed record of nisi prius having come to be tried by a jury on this day, the plaintiff produced and examined as a witness one *G.H.* to prove the fact of [*&c. &c.*]; and the said *G.H.* deposed that [*&c. &c.*], which evidence the defendant objected to as not being legal evidence of the fact; and the plaintiff insisting to the contrary, the judge at nisi prius admitted the evidence to be received accordingly; and therefore the defendant excepts, and prays that his exception shall be placed upon the record, for the examination of the court above.

(Signed) *L.M.*, counsel for defendant.
L.P. judge.

No. 8.

Suggestion of breaches.

In the Queen's Bench:

Monday, the 20th day of June A.D. 1869.

A.B. plaintiff. *C.D.* defendant. } And now on this day the said *A.B.* the plaintiff comes and informs the court that after the recovery of the said judgment, and on the first day of April 1865, another half-yearly gale of the said annuity, amounting to the sum of 100*l.*, became due and payable to the plaintiff, and that the defendant has neglected and refused to pay the same, in breach and violation of the conditions of the said bond upon which the plaintiff recovered such judgment; and therefore the plaintiff prays execution of the said judgment for the further sum of 100*l.*

A.D. 1869.

No. 9.

Form of rule or summons where a judgment creditor applies for execution against a judgment debtor.

[*Formal parts.*]

C.D. show cause why *A.B.* [*or as the case may be*] should not be at liberty to enter a suggestion upon the roll in an action wherein the said *A.B.* was plaintiff and the said *C.D.* was defendant, and wherein the said *A.B.* obtained judgment for *l.* against the said *C.D.* on the day of ; that it manifestly appears to the court that the said *A.B.* is entitled to have execution of the said judgment, and to issue execution thereupon, and why the said *C.D.* should not pay to the said *A.B.* the costs of this application, to be taxed.

[Note.—*The above form may be modified so as to meet the case of an application by or against the representative of a party to the judgment.*]

No. 10.

Form of suggestion that the judgment creditor is entitled to execution against the judgment debtor.

And now on the day of it is suggested and manifestly appears to the court, that the said *A.B.* [*or C.D.*, as executor of the last will and testament of the said *A.B.*, deceased, *or as the case may be*], is entitled to have execution of the judgment aforesaid against the said *E.F.* [*or* against *G.H.*, as executor of the last will and testament of the said *E.F.*, *or as the case may be*]: Therefore it is considered by the court that the said *A.B.* [*or C.D.*, as such executor as aforesaid, *or as the case may be*], ought to have execution of the said judgment against the said *E.F.* [*or* against *G.H.* as such executor as aforesaid, *or as the case may be*].

No. 11.

Form of writ of revivor.

Victoria, by the grace of God, *&c.*, to *E.F.* of greeting.

We command you that within eight days after the service of this writ upon you, inclusive of the day of such service, you appear in our court of to show cause why *A.B.* [*or C.D.*, as executor of the last will and testament of the said *A.B.*, deceased, *or as the case may be*,] should not have execution against you [*if against a representative, here insert,* as executor of the last will and testament of deceased, *or as the case may be*] of a judgment whereby the said *A.B.* [*or as the case may be*] on the day of in the said court recovered against you [*or as the case may be*] *l.*: and take notice, that in default of your so doing the said *A.B.* [*or as the case may be*] may proceed to execution.

Witness, *&c.*

A.D. 1869.

No. 12.

Satisfaction piece, affidavit, and requisition to enter satisfaction on judgment.

A.B. plaintiff. / *C.D.* defendant. } I *A.B.* of court of as of term 18 Roll No. of against *C.D.* for the sum which said judgment has been fully satisfied and discharged [*or, in case of part payment,* of which the sum of , part of the sum secured by the said judgment, has been paid]; and I hereby consent that satisfaction [*or, in case of part payment,* a memorandum of such part payment shall] be entered on the record of said judgment.

Dated this day of 18 .

Signed in presence of *E.F.* *A.B.*

The above-named *E.F.* of this day maketh oath and saith, that he is the subscribing witness to and saw the above consent duly executed by *A.B.* of , and saith that the name *E.F.* subscribed as witness to the above consent is deponent's proper name and handwriting.

(Signed) *E.F.*

Sworn before me, this

Now I *G.H.* of a practising attorney of this honourable court, do hereby, on behalf of the defendant, require the proper officer to enter satisfaction [*or, in case of part payment,* that a memorandum of part payment be entered] on the record of said judgment.

(Signed) *G.H.*, Attorney.

To the master of the court of

No. 13.

Memorandum of error in law.

In the Queen's Bench:

The day of in the year of our Lord 18 .

[*The day of lodging note of error.*]

A.B. and *C.D.*

The plaintiff [*or* defendant] says, that there is error in law in the record and proceedings in this action; and the defendant [*or* plaintiff] says that there is no error therein.

(Signed) *A.B.*, plaintiff.
[*or C.D.*, defendant.]
[*or E.F.*, attorney for plaintiff *or* defendant.]

No. 14.

Suggestion of error and denial of it.

The day of in the year of our Lord 18 .

[*The day of making the entry on the roll.*]

The plaintiff [*or* defendant] says, that there is error in the above record and proceedings; and the defendant [*or* plaintiff] says that there is no error therein.

A.D. 1869.

No. 15.

Memorandum alleging error in fact.

In the Queen's Bench:

The day of in the year of our Lord 18 .

[*The day of lodging note of error.*]

A.B. and *C.D.* in error.

The plaintiff [*or* defendant] says that there is error in fact in the record and proceedings in this action, in the particulars specified in the affidavit hereunto annexed.

(Signed) *A.B.*, plaintiff.
[*or C.D.*, defendant.]
[*or E.F.*, attorney for plaintiff or defendant.]

No. 16.

Writ of summons in cases of summary procedure on bills of exchange.

Victoria, by the grace of God, *&c.*

To *C.D.*, of in the county of

WE warn you, that unless within twelve days after the service of this writ on you, inclusive of the day of such service, you obtain leave from the Court of or one of the judges thereof, to appear, and do within that time appear, in our Court of in an action at the suit of *A.B.*, the said *A.B.* may proceed to judgment and execution.

Witness, *&c.*

Memorandum to be subscribed on the writ.

N.B.—This writ is to be served within six calendar months from the date hereof, or if renewed from the date of such renewal, including the day of such date, and not afterwards.

Endorsement to be made on the writ before service thereof.

This writ was issued by *E.F.* of attorney for the plaintiff, *or* This writ was issued in person by *A.B.*, who resides at

[*Mention the city, town, or parish, and also the name of the street, and number of the house of the plaintiff's residence.*]

Endorsement.

The plaintiff claims [pounds, principal and interest], *or* pounds, balance of principal and interest, due to him as the payee [*or* endorsee] of a bill of exchange or promissory note, of which the following is a copy:

[*Here copy bill of exchange or promissory note, and all endorsements upon it.*]

And if the amount thereof be paid to the plaintiff or his attorney within days from the service hereof, further proceedings will be stayed.

A.D. 1869.

Notice.

Take notice, That if the defendant do not obtain leave from the court, or one of the judges thereof, within twelve days after having been served with this writ, inclusive of the day of such service, to appear thereto, and do not within such time cause an appearance to be entered for him in the court into which this writ is returnable, the plaintiff will be at liberty, at any time after the expiration of such twelve days, to sign final judgment for any sum not exceeding the sum above claimed, and the sum of pounds for costs, and issue execution for the same.

Leave to appear may be obtained on an application to the court or a judge, supported by affidavit, showing that there is a defence to the action on the merits, or that it is reasonable that the defendant should be allowed to appear in the action.

Endorsement to be made on the writ after service thereof.

This writ was served by *X.Y.* on *L.M.* (the defendant *or* the defendants), on Monday the day of 18 .

By *X.Y.*

No. 17.

Judgment on nonappearance in cases of summary procedure on bills of exchange and promissory notes.

In the Queen's Bench:

On the day of in the year of our Lord 18 .

[*Day of signing judgment.*]

Ireland, to wit. } *A.B.* in his own person [*or* by his attorney] sued out a writ against *C.D.*, endorsed as follows:

[*Here copy endorsement of plaintiff's claim.*]

And the said *C.D.* has not appeared.

Therefore it is considered that the said *A.B.* recover against the said *C.D.* pounds, together with pounds for costs of suit.

No. 18.

Ejectment.

Form of writ.

Victoria, *&c.*, to *X.Y.Z.*, and all persons entitled to defend the possession of

[*Describe the property with reasonable certainty*]

in the parish of in the county of , to the possession whereof *A.*, *B.*, and *C.*, some or one of them, claim to be [*or* to have been on and since the day of A.D.] entitled, and to eject all other persons therefrom: These are to will and command you, or such of you as deny the alleged title, within sixteen days after service hereof, to appear in our Court of to defend the

said property, or such part thereof as you may be advised; in default whereof judgment may be signed, and you turned out of possession. A.D. 1869.

Witness, *&c.* (*as in personal actions*).

[*Here endorse the sum claimed as damages for the loss of mesne rates and profits, or the particulars of the rent due, as the case may be.*]

No. 19.

Judgment in ejectment in case of nonappearance.

In the Queen's Bench:

The day of 18 .

[*Date of writ.*]

County of Cork, to wit. } On the day and year above written, a writ of our Lady the Queen issued forth, returnable into this court, in these words; that is to say,

Victoria, by the grace of God

[*Here copy the writ.*]

And no appearance has been entered or defence made to the said writ: therefore it is considered that the said

[*Here insert the names of the persons in whom title is alleged in the writ.*]

do recover possession of the land in the said writ mentioned, with the appurtenances.

No. 20.

Judgment in ejectment where no defence to part.

In the Queen's Bench:

The day of A.D. 18 .

County of Galway, to wit. } On the day and year above written, a writ of our Lady the Queen issued forth, returnable into this court, in these words; that is to say,

Victoria, by the grace of God

[*Here copy the writ.*]

and *C.D.* has, on the day of appeared by his attorney [*or* in person] to the said writ, and has defended for a part of the land in the writ mentioned; that is to say,

[*Here state the part.*]

and no appearance has been entered or defence made to the said writ, except as to the said part: Therefore it is considered that the said *A.B.* [*the claimant*] do recover possession of the land in the said writ mentioned, except the said part, with the appurtenances, and that he have execution thereof forthwith; and as to the rest, let a jury come, *&c.* [*as in the next Form, No.* 21].

A.D. 1869.

No. 21.

Issue in ejectment where the defence is to the whole.

In the Queen's Bench:

The day of A.D. 18 .

County of Dublin, to wit. } On the day and year above written a writ of our Lady the Queen issued forth, returnable into this court, in these words; that is to say,

Victoria, by the grace of God

[*Here copy the writ.*]

And *C.D.* has on the day of appeared by his attorney [*or* in person] to the said writ, and defended for the whole of the land therein mentioned: Therefore let a jury come, *&c.*, and let the jury ascertain whether the plaintiff is entitled to any and what damages for loss of mesne rates and profits, and [*in case of ejectment for nonpayment of rent*] the amount of rent due to the plaintiff.

No. 22.

Judgment in ejectment on verdict for the plaintiff.

Afterwards, on the day of A.D. before and justices of our Lady the Queen, assigned to take the assizes in and for the within county, come the parties within mentioned; and a jury of the said county being sworn to try the matters in question between the said parties, upon their oath say, that *A.B.* (*the claimant*) within mentioned, on the day of A.D. was and still is entitled to the possession of the land within mentioned, as in the writ alleged: Therefore it is considered that the said *A.B.* (*the claimant*) do recover the possession of the said land with the appurtenances, and the sum of *l.* for his damages for the loss of the mesne rates and profits of the said lands [*and in ejectment for nonpayment of rent*] the sum of *l.* for the arrears of the rent of the said land.

No. 23.

Judgment in ejectment for costs after discontinuance.

In the Queen's Bench:

The day of 18 .

[*Date of writ.*]

County of Kildare, to wit. } On the day and year above written a writ of our Lady the Queen issued forth, returnable into this court, in these words; that is to say,

Victoria, by the grace of God

[*Here copy the writ.*]

And *C.D.* has, on the day of appeared by his attorney [*or* in person] to the said writ, and *A.B.* has discontinued the action: Therefore it is considered that the said *C.D.* be acquitted, and that he recover against the said *A.B.* *l.* for his cost of defence.

A.D. 1869.

No. 24.

Judgment in ejectment where the plaintiff has not proceeded to trial when required so to do.

In the Queen's Bench:

The day of 18 .

[*Date of writ.*]

County of Tyrone, to wit. } On the day and year above written a writ of our Lady the Queen issued forth, returnable into this court, in these words; that is to say,

Victoria, by the grace of God

[*Here copy the writ.*]

And *C.D.* has on the day of appeared by his attorney [*or* in person] to the said writ, and *A.B.* has failed to proceed to trial, although duly required so to do: Therefore it is considered that the said *C.D.* be acquitted, and that he recover against the said *A.B.* *l.* for his costs of defence.

No. 25.

Judgment in ejectment by confession.

In the Queen's Bench:

The day of 18 .

[*Date of writ.*]

County of Carlow, to wit. } On the day and year above written a writ of our Lady the Queen issued forth, returnable into this court, in these words; that is to say,

Victoria, by the grace of God

[*Here copy the writ.*]

And *C.D.* has, on the day of appeared by his attorney [*or* in person] to the said writ, and the said *C.D.* has confessed the said action [*or* has confessed the said action as to part of the said land, that is to say, *here state the part*]: Therefore it is considered that the said *A.B.* do recover possession of the land in the said writ mentioned [*or* of the said part of the said land, with the appurtenances, and *l.* for costs.

No. 26.

Writ of replevin.

Victoria, by the grace of God, *&c.*

To the sheriff of greeting.

We command you that without delay you cause to be replevied to *A.B.* his goods and chattels (and cattle), to wit, which *C.D.* took and unjustly detains, as it is said, and after what manner you shall have executed this our writ make appear to us [*or* to our justices or barons, *as the case may be*], at the Queen's Courts, Dublin, and have there this our writ.

Witness, *&c.*

Endorsements as in other cases.

A.D. 1869.

SCHEDULE (B.)

FORMS OF PLEADINGS.

STATEMENT OF CAUSES OF ACTION.

On contracts.

Goods sold. 1. MONEY payable by the defendant to the plaintiff for [*These words,* "Money payable," *&c. should precede money counts like* 1 *to* 13, *but need only be inserted in the first.*] goods bargained and sold by the plaintiff to the defendant.

Work and materials. 2. Work done and materials provided by the plaintiff for the defendant at his request.

Money lent. 3. Money lent by the plaintiff to the defendant.

Money paid. 4. Money paid by the plaintiff for the defendant at his request.

Money received. 5. Money received by the defendant for the use of the plaintiff.

Account stated. 6. Money found to be due from the defendant to the plaintiff on accounts stated between them.

For an estate sold. 7. A messuage and land sold and conveyed by the plaintiff to the defendant.

For goodwill. 8. The goodwill of a business of the plaintiff sold and given up by the plaintiff to the defendant.

For the use of a house and land. 9. The defendant's use, by the plaintiff's permission, of messuages and lands of the plaintiff.

For the use of a fishery. 10. The defendant's use, by the plaintiff's permission, of a fishery of the plaintiff.

For hire of goods, &c. 11. The hire of [*as the case may be*] by the plaintiff, let to hire to the defendant.

For freight. 12. Freight for the conveyance by the plaintiff, for the defendant, at his request, of goods in ships.

For demurrage. 13. The demurrage of a ship of the plaintiff kept on demurrage by the defendant.

Payee against maker of note. 14. That the defendant on the day of A.D., by his promissory note, now overdue, promised to pay to the plaintiff *l.* [*two*] months after date, but did not pay the same.

Indorsee against indorser of note. 15. That one *A.* on, *&c.* [*date*], by his promissory note, now overdue, promised to pay to the defendant or order *l.* [*two*] months after date; and the defendant endorsed the same to the plaintiff; and the said note was duly presented for payment, and was dishonoured, whereof the defendant had due notice, but did not pay the same.

Drawee against acceptor of bill. 16. That the plaintiff on, *&c.* [*date*], by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff *l.* [*two*] months after date; and the defendant accepted the said bill, but did not pay the same.

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17. That the defendant, on, &c. [*date*], by his bill of exchange, directed to *A.*, required *A.* to pay to the plaintiff *l.* [*two*] months after date; and the said bill was duly presented for acceptance, and was dishonoured, of which the defendant had due notice, but did not pay the same. Payee against drawer.

18. That the plaintiff and defendant agreed to marry one another, and a reasonable time for such marriage has elapsed, and the plaintiff has always been ready and willing to marry the defendant, yet the defendant has neglected and refused to marry the plaintiff. Breach of promise of marriage.

19. That the plaintiff and defendant agreed to marry one another on a day now elapsed, and the plaintiff was ready and willing to marry the defendant on that day, yet the defendant neglected and refused to marry the plaintiff.

20. That the defendant, by warranting a horse to be then sound and quiet to ride, sold the said horse to the plaintiff, yet the said horse was not then sound and quiet to ride. Warranty of a horse.

21. That the plaintiff and the defendant agreed by charterparty that the plaintiff's ship, called the *Ariel*, should with all convenient speed sail to *R.*, or so near thereto as she could safely get, and that the defendant should there load her with a full cargo of tallow or other lawful merchandise, which she should carry to *H.*, and there deliver, on payment of freight *l.* per ton, and that the defendant should be allowed ten days for loading, and ten for discharge, and ten days for demurrage, if required, at *l.* per day; and that the plaintiff did all things necessary on his part to entitle him to have the agreed cargo loaded on board the said ship at *R.*, and the time for so doing has elapsed, yet the defendant made default in loading the agreed cargo. For not loading pursuant to charterparty.

22. That the plaintiff let to the defendant a house, No. , Merrion Square, North, Dublin, for seven years, to hold from the day of A.D. at *l.* a year, payable quarterly, of which rent quarters are due and unpaid. Upon a lease for rent.

23. That the plaintiff by deed let to the defendant a house, No. , Henrietta Street, Dublin, to hold for seven years from the day of , A.D. , and the defendant by the said deed covenanted with the plaintiff well and substantially to repair the said house during the said term [*according to the covenant*], yet the said house was during the said term out of good and substantial repair. Upon a covenant to repair.

For wrongs independent of contract.

24. That the defendant broke and entered certain land of the plaintiff, called the Big Field, and depastured the same with cattle. Trespass land.

25. That the defendant assaulted and beat the plaintiff, gave him into custody to a policeman, and caused him to be imprisoned in a police office. Assault, battery, and false imprisonment.

26. That the defendant debauched and carnally knew the plaintiff's wife. Criminal conversation.

27. That the defendant converted to his own use or wrongfully deprived the plaintiff of the use and possession of the plaintiff's goods; that is to say, iron, hops, household furniture [*or, as the case may be*]. Wrongful conversion of goods.

28. That the defendant detained from the plaintiff his title deeds of land called Belmont in the county of Cork; that is to say [*describe the deeds*]. Wrongful detention of property, &c.

A.D. 1869.

Diverting water from a mill.

29. That the plaintiff was possessed of a mill, and by reason thereof was entitled to the flow of a stream for working the same, and the defendant, by cutting the bank of the said stream, diverted the water thereof away from the said mill.

Infringement of a patent.

30. That the plaintiff was the first and true inventor of a certain new manufacture, that is to say, of "certain improvements in the manufacture of "sulphuric acid," and thereupon Her Majesty Queen Victoria, by letters patent der the great seal of England, granted the plaintiff the sole privilege to make, use, exercise, and vend the said invention within Ireland, for the term of fourteen years from the day of A.D. , subject to a condition that the plaintiff should, within six calendar months next after the date of the said letters patent, cause to be enrolled in the High Court of Chancery an instrument in writing under his hand and seal, particularly describing and ascertaining the nature of his said invention, and in what manner the same was to be and might be performed, and the plaintiff did within the time prescribed fulfil the said condition, and the defendant during the said term did infringe the said patent right.

Defamation of character.

31. That the defendant falsely and maliciously spoke and published of the plaintiff the words following; that is to say, "he is a thief,"

[*If there be any special damage, here state it with such reasonable particularity as to give notice to the defendant of the peculiar injury complained of; for instance,*]

whereby the plaintiff lost his situation as gamekeeper in the employ of *A.*

32. That the defendant falsely and maliciously printed and published of the plaintiff, in a newspaper called " ," the words following; that is to say, "he is a regular prover under bankruptcies;" the defendant meaning thereby that the plaintiff had proved and was in the habit of proving fictitious debts against the estates of bankrupts, with the knowledge that such debts were fictitious.

Commencement of plea.

33. The defendant by his attorney [*or* in person] says

[*Here state the substance of the plea.*]

34. And for a second plea the defendant says

[*Here state the second plea.*]

Pleas in actions on contracts.

Denial of debt.

35. That he never was indebted as alleged.

[*This plea is applicable to declarations like those numbered* 1 *to* 13.]

Denial of contract.

36. That he did not promise as alleged.

[*This plea is applicable to other declarations on simple contracts, not on bills and notes such as those numbered* 18 *to* 21. *It would be unobjectionable to use* "did not warrant," "did not agree," *or any other appropriate denial.*]

Denial of deed.

37. That the alleged deed is not his deed.

Statute of limitations.

38. That the alleged cause of action did not accrue within six years

[*State the period of limitation applicable to the case*]

before this suit.

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39. That before action he satisfied and discharged the plaintiff's claim by payment. Payment.

40. That the plaintiff at the commencement of this suit was, and still is, indebted to the defendant in an amount equal to the plaintiff's claim, for Set-off.

[*Here state the cause of set-off, as in a declaration; see forms ante.*]

which amount the defendant is willing to set off against the plaintiff's claim.

41. That after the alleged claim accrued, and before this suit, the plaintiff by deed released the defendant therefrom. Release.

Pleas in actions for wrongs independent of contract.

42. That he is not guilty. Not guilty.

43. That he did what is complained of by the plaintiff's leave. Leave and licence.

44. That the plaintiff first assaulted the defendant, who thereupon necessarily committed the alleged assault in his own defence. Self-defence.

45. That the defendant, at the time of the alleged trespass, was possessed of land the occupiers whereof for twenty years before this suit enjoyed as of right, and without interruption, a way on foot and with cattle from a public highway over the said land of the plaintiff to the said land of the defendant, and from the said land of the defendant over the said land of the plaintiff to the said public highway, at all times of the year, for the more convenient occupation of the said land of the defendant, and that the alleged trespass was a use by the defendant of the said way. Right of way.

46. That the defendant, at the time of the alleged trespass, was possessed of land the occupiers whereof for thirty years before this suit enjoyed as of right, and without interruption, common of pasture over the said land of the plaintiff for all their cattle, levant and couchant, upon the said land of the defendant, at all times of the year, as to the said land of the defendant appertaining, and that the alleged trespass was a use by the defendant of the said right of common. Right of common.

Replications.

47. The plaintiff takes issue upon the defendant's 1st, 2d, &c. pleas. Joinder of issue.

48. The plaintiff as to second plea says,— Replication to pleas containing new matter.

[*Here state the answer to the plea as in the following forms:*]

49. That the alleged release is not the plaintiff's deed. To plea of release.

50. That the alleged release was procured by the fraud of the defendant.

51. That the alleged set-off did not accrue within six years before this suit. To plea of set-off.

52. That the plaintiff was possessed of land whereon the defendant was trespassing and doing damage, whereupon the plaintiff requested the defendant to leave the said land, which the defendant refused to do; and thereupon the plaintiff gently laid his hands on the defendant in order to remove him, doing no more than was necessary for that purpose, which is the alleged first assault by the plaintiff. To self-defence.

53. That the occupiers of the said land did not for twenty years before this suit enjoy as of right and without interruption the alleged way. To right of way.

A.D. 1869.

New assignment.

To the pleas of right of way and right of common.

54. The plaintiff, as to the and pleas, says, that he sues, not for the trespasses therein admitted, but for trespasses committed by defendant in excess of the alleged rights, and also in other parts of the said land, and on other occasions, and for other purposes than those referred to in the said pleas.

[*If the plaintiff replies, and new assigns, the new assignment may be as follows:*]

55. And the plaintiff, as to the and pleas, further says, that he sues not only for the trespasses in those pleas admitted, but also for, &c.

[*If the plaintiff replies, and new assigns to some of the pleas, and new assigns only to the other, the form may be as follows:*]

56. And the plaintiff, as to the and pleas, further says, that he sues not for the trespasses in the pleas

[*The pleas not replied to*]

admitted, but for the trespasses in the pleas

[*The pleas replied to*]

admitted, and also for, &c.

SCHEDULE (C.)

Acts to be repealed, in so far as in the foregoing Act declared.

Date of Act.	Title of Act.	Extent of Repeal.
33 Geo. 3. c. 42. -	An Act for the relief of insolvent debtors in regard to the imprisonment of their persons.	Sect. 28.
35 Geo. 3. c. 30. -	An Act for the relief of insolvent debtors in regard to the imprisonment of their persons.	Sect. 31.
16 & 17 Vict. c. 113.	An Act to amend the procedure in the Superior Courts of Common Law in Ireland.	The entire Act, except Sections 7, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 126, 191, 192, 232, 234, 235, 236, 237, 238.
19 & 20 Vict. c. 102.	An Act to further amend the procedure in the Superior Courts of Common Law in Ireland.	The entire Act, except Sections 96, 97.
23 & 24 Vict. c. 154.	An Act to consolidate and amend the laws of Landlord and Tenant in Ireland.	Sections 55, 56, 57, 58, 60, 67, 74, 77, so far as they relate to proceedings in the Superior Courts of Common Law.
24 & 25 Vict. c. 43.	An Act to facilitate the remedies on Bills of Exchange and Promissory Notes in Ireland, by the prevention of frivolous or fictitious defences to actions thereto.	The entire Act.
25 Vict. c. 23. -	An Act to amend the "Summary Procedure on Bills of Exchange (Ireland) Act, 1861."	The entire Act.

A.D.1869.

SCHEDULE (D.)

Law Fund Duties on proceedings under the foregoing Act.

	£	s.	d.
Affidavits - - - - - - - - -			
Attested copy of any pleading, judgment, affidavit, &c., &c. per folio of seventy-two words - - - - -			
Every appearance entered in ejectment - - -			
Copy of any rule - - - - - - - -			
Rule or order of every description - - - -			
Writs of summons, declaration, pleas, demurrers, and all other pleadings and consents for judgment - - - -			
Writs of subpœna, execution, and all other writs whatsoever, save writs of summons - - - - - - -			
Nisi Prius record - - - - - - - -			
Report of master - - - - - - - -			
Requisition to enter judgment, whether final or interlocutory, on cognovit or otherwise, except a final judgment where interlocutory judgment has been already entered - -			
Summons to tax costs - - - - - - -			
Requisition to tax costs not exceeding 20*l.* - - -			
Requisition to tax costs not exceeding 50*l.* - - -			
Requisition to tax costs not exceeding 100*l.* - - -			
Requisition to tax costs exceeding 100*l.* - - - -			

General exemption from the foregoing duties in respect of all proceeding on behalf of paupers admitted to sue or defend in formâ pauperis.

Common Law Courts (Ireland). [H.L.]

A

BILL

INTITULED

An Act to amend the pleading, practice, and procedure of the Courts of Common Law in Ireland.

(*Brought from the Lords* 12 *April* 1869.)

Ordered, by The House of Commons, *to be Printed*, 12 *April* 1869.

[Bill 74.]

Under 17 *oz.*

A

B I L L

TO

Amend The Companies Clauses Act, 1863.

A.D. 1869.

Preamble.

WHEREAS "The Companies Clauses Act, 1863," has been amended in certain respects as regards railway companies, and it is expedient that such amendments should extend to other companies:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Amendment of Part III. as to rate of interest on debenture stock.

1. Part III. of "The Companies Clauses Act, 1863," shall be read and have effect as if the following words, that is to say, "not "exceeding the rate prescribed in the special Act, and if no rate is "prescribed, then not exceeding the rate of four pounds per centum "per annum," had not been inserted in section 22 of that Act, and any special Act of a company passed before the passing of this Act, prescribing any rate, shall be read and have effect as if no rate had been prescribed therein.

Restriction on rate of interest on debenture stock already authorized.

2. Provided, that any debenture stock, the creation whereof has been authorized by a company, but which has not been issued before the passing of this Act, shall not be issued on any terms other than those whereon it might have been issued if this Act had not been passed, unless and until the issue thereof, on terms other than as aforesaid, is after the passing of this Act authorized by the company in manner provided in section 22 of "The Com- "panies Clauses Act, 1863."

Power to issue debenture stock, subject to Part III. of 26 & 27 Vict. c. 118.

3. Any company having power to raise money on mortgage or bond by virtue of any Act of Parliament, but not having power to create and issue debenture stock, may create and issue debenture stock subject to the provisions of Part III. of "The Companies Clauses

A.D. 1869.

Act, 1863" (relating to debenture stock), and Part III. of the said Act, as amended by this Act, shall be deemed to be incorporated with the special Act of every such company.

Advances to meet debentures falling due.

4. Money borrowed by a company for the purpose of paying off and duly applied in paying off bonds or mortgages of the company given or made under the statutory powers of the company shall, so far as the same is so applied, be deemed money borrowed within and not in excess of such statutory powers.

Power to issue shares or stock at discount.

5. Section 21 of "The Companies Clauses Act, 1863," shall, with respect to any company to which it is applicable under the provisions of this or any other Act, be read and have effect as if the following words, that is to say, "but so that not less than the full nominal "amount of any share or portion of stock be payable or paid in "respect thereof," had not been inserted in that section.

Power to issue residue of original or other capital at discount.

6. Any shares forming part of the capital (whether original or additional) authorized to be raised by any special Act of a company passed before the present session which have not been disposed of may be disposed of in manner provided by Part II. of "The Companies Clauses Act, 1863," as amended by this Act, and that Part, as so amended, shall be deemed incorporated with such special Act accordingly.

Restriction on issuing at discount shares or stock already authorized.

7. Provided, that any shares, the creation whereof has been authorized by a company, but which have not been issued before the passing of this Act, shall not be issued on any terms other than those whereon the same might have been issued if this Act had not been passed unless and until the issue thereof on terms other than as aforesaid is after the passing of this Act authorized by the company in manner provided by Part II. of "The Companies Clauses Act, 1863."

Short title.

8. This Act may be cited as "The Companies Clauses Act, 1869."

Companies Clauses Act (1863) Amendment.

A

B I L L

To amend The Companies Clauses Act, 1863.

(*Prepared and brought in by Mr. Goldney and Mr. Eykyn.*)

Ordered, by The House of Commons, *to be printed,* 28 *May* 1869.

[Bill 138.]

Under 1 *oz.*

A

B I L L

FOR

The abolition of compulsory Church Rates in Scotland. A.D. 1869.

WHEREAS it is desirable to assimilate the law respecting the compulsory levying of Church Rates within the different parts of the United Kingdom:

And whereas the levying of Church Rates in Ireland was abolished by an Act passed in the third and fourth year of His Majesty King William the Fourth, chapter thirty-seven:

And whereas the compulsory levying of Church Rates in England was abolished by an Act passed in the thirty-first and thirty-second year of Her Majesty, chapter one hundred and nine:

And whereas it is expedient that the compulsory payment of Church Rates in Scotland should likewise be abolished:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Definition of terms.

1. In this Act "Church Rate" shall mean any rate or assessment imposed or laid on, for the building, rebuilding, enlargement, or repair of any parish church, assistant church, quoad sacra church, or chapel, or manse; or for providing, or enlarging, any glebe.

The expression "church" shall include all fencing of the site whereon the church is built:

The expression "manse" shall include offices, garden, and garden walls:

The expression "parish" shall include united parishes, and parishes quoad sacra:

The expression "glebe" shall include grass glebe, or ministers grass:

"Ecclesiastical purposes" shall mean any of the purposes hereinbefore defined.

A.D. 1869.

Compulsory payment abolished.

2. From and after the passing of this Act, no action shall be raised, or diligence used, to enforce, or compel payment of any Church Rate or assessment made in any parish or place in Scotland.

Special rates not to be affected.

3. Where, in pursuance of any General or Local Act, any rate or assessment may be made and levied which is applicable partly to Church Rate purposes and partly to other purposes, such rate shall be made, levied, and applied for such last-mentioned purposes only; and so far as it is applicable to such purposes shall be deemed to be a separate rate and not a Church Rate, and shall not be affected by this Act.

Special rates how to be applied.

Where, in pursuance of any Act of Parliament, a mixed fund, arising partly from rates affected by this Act, and partly from other sources, is directed to be applied to purposes some of which are Church Rate purposes, the portion of such fund which is derived from such other sources shall be henceforth primarily applicable to Church Rate purposes.

Rate to be continued for paying money borrowed or due.

4. In any parish where a sum of money is, at the time of the passing of this Act, due on the security of any Church Rate or assessment to be made or levied in such parish under the provisions of any Act of Parliament, such rate or assessment may still be made and levied, and the payment thereof enforced by action or diligence, as accords of law, pursuant to such provisions, for the purpose of paying off the money so due, or paying the money so ordered to be raised and the costs incidental thereto, but not otherwise until the same shall have been liquidated; and it shall be lawful for the sheriff upon application by summary petition to that effect to remit to any competent person to audit the accounts of the person or persons, or bodies corporate, having authority to make or levy such rate, in reference to the receipt and expenditure of the monies levied under such Acts of Parliament.

Rates made before passing of this Act.

5. Any Church Rate or any assessment in the nature of a Church Rate, made, or becoming due and payable at any time before the passing of this Act, may be collected and recovered in the same way as if this Act had not been passed.

Not to affect the powers of heritors or presbyteries.

6. This Act shall not affect the powers of heritors or presbyteries, or the making, assessing, receiving, or otherwise dealing with any Church Rate or assessment, save in so far as relates to the recovery thereof.

Rates may be paid voluntarily.

7. It shall be lawful for all bodies corporate, trustees, tutors, curators, judicial factors, and other judicial officers, whether they shall be in the occupation of any lands, houses, or tenements, or

whether the same are in the occupation of the beneficiary, to pay if they think fit, any church rate or assessment, made in respect of such property, which, if this Act had not been passed, they would have been liable to pay, although the payment of the same may not be enforceable after the passing of this Act; and the same shall be allowed to them in any account to be rendered by them respectively.

Persons in default not to vote.

8. No person who makes default in paying the amount of any Church Rate or assessment for which he is assessed, shall be entitled to inquire into, or object to, or vote, in respect of the expenditure of the monies arising from such Church Rate.

Trustees may be appointed.

9. A body of trustees may be appointed in any parish for the purpose of accepting by bequest, donation, contract, or otherwise, and of holding, any contributions which may be given to them for Church Rate purposes in the parish.

Election of trustees.

The trustees shall consist of the minister and of two heritors in the parish, to be chosen in the first instance, and also from time to time, on any vacancy in the office occurring by death, incapacity, or resignation, the one by the patron, and the other by the presbytery of the bounds in which the parish is situated.

Constitution of trust.

The trustees shall be a body corporate, by the name of the church trustees of the parish to which they belong, having a perpetual succession and a common seal, with power to sue and be sued, and to hold and transfer property in their corporate name.

Trustees may pay over funds to public bodies.

The trustees may, from time to time, as circumstances may require, pay over to the heritors and kirk session of any parish, or in the case of burgh, to the town council or any other public body, any funds in their hands, to be applied by them either to the general Church Rate purposes of the parish or burgh, or to any other specific ecclesiastical purpose; and the funds so paid over may be applied to such purpose and to no other: Provided always, that no power shall be conferred on such heritors and kirk session, or town council, or other public body, to take order with regard to the ecclesiastical purposes of the parish or burgh, further or otherwise than they are now by law entitled to do: Provided also, that due regard shall be had to the directions of the donors of funds contributed for any special Church Rate or other ecclesiastical purpose, and subject to the foresaid conditions.

Trust funds may be invested.

The trustees may invest in such securities as trustees may lawfully hold, any funds in their hands, and accumulate the income thereof, or otherwise deal with such funds as they think expedient, subject to the provisions of this Act.

A.D. 1869.

The minister shall be the chairman of the trustees.

Trustees to produce accounts.

The trustees shall once at the least, in every year, lay before the heritors and kirk session an account of their receipts and expenditure during the preceding year, and of the mode in which such receipts have been derived, and expenditure incurred, together with a statement of the amount, if any, of funds remaining in their hands at the date of such account.

Short title.

10. This Act may be cited as the "Compulsory Church Rates Abolition (Scotland) Act, 1869."

Abolition (Scotland).

A

B I L L

For the abolition of compulsory Church Rates in Scotland.

(Prepared and brought in by Mr. M'Laren, Mr. Crawfurd, and Mr. Graham.)

Ordered, by The House of Commons, *to be Printed,* 9 *August* 1869.

[Bill 266.] *Under* 1 *oz.*

A

B I L L

INTITULED

An Act to amend the Contagious Diseases Act, 1866. A.D. 1869.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Contagious Diseases Act, 1869.

Construction of Act.

2. This Act shall be construed as one with the Contagious Diseases Act, 1866, (in this Act referred to as the principal Act,) and with the Act of the session of the thirty-first and thirty-second years of the reign of Her present Majesty, chapter eighty, and those Acts and this Act may be cited together as the Contagious Diseases Acts, 1866 to 1869.

Temporary detention of women.

3. Any woman who, on attending for examination or being examined by the visiting surgeon, is found by him to be in such a condition that he cannot properly examine her, shall, if such surgeon has reasonable grounds for believing that she is affected with a contagious disease, be liable to be detained in a certified hospital, subject and according to the provisions of the Contagious Diseases Acts 1866 to 1869, until the visiting surgeon can properly examine her, so that she be not so detained for a period exceeding five days. The visiting surgeon shall sign a certificate to the effect that she was in such a condition that he could not properly examine her, and that he has reasonable grounds to believe that she is affected with a contagious disease, and shall name therein the certified hospital in which she is to be placed; and such certificate shall be signed and otherwise dealt with in the same manner, and have the same effect, except as regards duration, as a certificate under the principal Act.

If the reason that the visiting surgeon cannot examine the woman is that she is drunk, she may be detained upon an order of the visiting surgeon for a period not exceeding twenty-four hours in

A.D. 1869.

any place named in the order where persons accused of being drunk and disorderly or of offences punishable summarily are usually detained, and the gaoler or the keeper of such place shall upon the receipt of such order receive and detain the woman accordingly.

Notice by justice to woman being a common prostitute.

4. Where an information on oath is laid before a justice by a superintendent of police, charging to the effect that the informant has good cause to believe that a woman therein named is a common prostitute, and either is resident within the limits of any place to which this Act applies, or, being resident within fifteen miles of those limits, or having no settled place of abode, has, within fourteen days before the laying of the information, either been within those limits for the purpose of prostitution, or been outside of those limits for the purposes of prostitution in the company of men resident within those limits, the justice may, if he thinks fit, issue a notice thereof addressed to such woman, which notice the superintendent of police shall cause to be served on her:

Provided that nothing in the Contagious Diseases Acts, 1866 to 1869, shall extend, in the case of Woolwich, to any woman who is not resident within the limits specified in the first schedule to this Act.

Section fifteen of the principal Act is hereby repealed, and the foregoing enactment in this section is substituted for it; provided that all proceedings taken and acts done under the section hereby repealed shall, notwithstanding, remain of full effect, and shall, if necessary, be continued as if they had been taken and done under this section.

Duration of Order.

5. Any order for subjecting a woman to periodical medical examination shall be in operation and enforceable as long as and whenever such woman is resident within fifteen miles of the limits of the place where the order was made, instead of within five miles, as prescribed by section thirty-two of the principal Act.

Effect of voluntary submission by women.

6. Where any woman, in pursuance of the principal Act, voluntarily subjects herself by submission in writing to a periodical medical examination under that Act, such submission shall, for all the purposes of the Contagious Diseases Acts, 1866 to 1869, have the same effect as an order of a justice subjecting the woman to examination; and all the provisions of the principal Act respecting the attendance of the woman for examination, and her absenting herself to avoid examination, and her refusing or wilfully neglecting to submit herself for examination, and the force of the order subjecting her to examination after imprisonment for such absence, refusal, or neglect, shall apply and be construed accordingly.

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Duration of detention.

7. A woman may be detained for a further period not exceeding three months, in addition to the six months allowed under section twenty-four of the principal Act, if such certificate as is required by that section, (to the effect that her further detention for medical treatment is requisite,) is given at the expiration of such six months; so, nevertheless, that any woman be not detained under one certificate for a longer time in the whole than nine months.

Custody of orders of discharge.

8. Where an order is made discharging a woman from any hospital, or where a certificate is given, under section thirty of the principal Act, that a woman is free from a contagious disease, such order and certificate shall be delivered to the superintendent of police, and retained by him.

Application to surgeon for relief from examination.

9. Any woman subjected, either on her own submission or under the order of a justice, to a periodical medical examination under the principal Act, who desires to be relieved therefrom, and is not under detention in a certified hospital, may make application in writing in that behalf to the visiting surgeon.

The visiting surgeon shall cause a copy of such application to be delivered to the superintendent of police, and if, after a report from such superintendent, he is satisfied by such report or other evidence that the applicant has ceased to be a common prostitute, may, by order under his hand, direct that she be relieved, and she shall thereupon be relieved, from periodical medical examination.

Such order shall be in triplicate; one copy shall be delivered to the woman, and two copies shall be delivered to the superintendent of police, who shall communicate one copy to the justice (if any) who made the order subjecting the woman to a periodical medical examination, or to his successor in office.

The provisions of this section shall be in addition to and not in substitution for the provisions of the principal Act for relieving a woman from examination.

Places to which Act extends.

10. The places to which the Contagious Diseases Acts, 1866 to 1869, apply, shall, except so far as regards section five of the Contagious Diseases Act, 1866, be the places mentioned in the first schedule to this Act, the limits of which places shall, for the purposes of the said Acts, be such as are defined in that schedule.

Forms in second schedule to be used.

11. The forms of certificates, orders, and other instruments given in the second schedule to this Act, or forms to the like effect, with

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such variations and additions as circumstances require, may be used for the purposes therein indicated, and according to the directions therein contained, and instruments in those forms shall (as regards the form thereof) be valid and sufficient.

Repeal of 29 & 30 Vict. c. 35. ss. 4, 38.

12. Sections four and thirty-eight of the principal Act, and the two schedules to that Act, are hereby repealed.

FIRST SCHEDULE.

Names of Places.	Limits of Places.
Aldershot - -	The limits of the following parishes; namely, Pirbright, Ash, Compton, Peper Harow, Frimley, Puttenham, } in the county of Surrey. Seal, Tongham, Elstead, Farnham, Bisley. Aldershot, Yateley, Crondall, Dogmersfield, Winchfield, Hartley Wintney, } in the county of Hants. Cove, Eversley, Farnborough, Binsted, Bentley, Sandhurst, in the county of Berks.
Canterbury - -	The limits of the following parishes or ecclesiastical districts; namely, St. Andrew. All Saints. St. Alphage. St. Mary Bredin. St. Mary Bredman. St. George-the-Martyr. St. Mary Magdalen. St. Margaret. St. Mildred. St. Mary, Northgate. St. Martin. St. Paul. St. Peter. The Archbishop's Palace. St. Dunstan. Christ Church. St. Gregory Staplegate Westgate Within. Westgate Without. St. Augustine. Old Castle.

Names of Places.	Limits of Places.
Chatham - -	The limits of the following parishes and places; namely, Chatham. Gillingham. St. Nicholas, Rochester. St. Margaret, Rochester. The Precincts, Rochester. Brompton. New Brompton. Strood, Frindsbury, and The hamlet of Grange, otherwise Grench.
Colchester - -	The limits of the following parishes or ecclesiastical districts; namely, All Saints. St. Botolph. St. Giles. St. James. St. John. St. Leonard. St. Martin. St. Mary at the Walls. St. Mary Magdalene. St. Nicholas. St. Peter. St. Runwald. The Holy Trinity. St. Andrew's, Greenstead. Lexden. St. Michaels, Mile End.
Dover - -	The limits of the parishes of— Buckland. Charlton. Hougham. St. Mary's. St. James's. Eastcliff (extra-parochial). Guston.
Gravesend - -	The limits of the parishes of— Gravesend. Milton. Northfleet. Denton. Chalk.
Maidstone - -	The limits of the parishes of— Maidstone. Barming. East Farleigh. Loose. Boughton Monchelsea. Allington, and The Hamlet of Tovil.

Names of Places.	Limits of Places.
Plymouth and Devonport	The limits of the following places; namely, The municipal borough of Plymouth. The parliamentary borough of Devonport. The district of Laira. The tithing of Pennycross or Western Peveril. The tithing of Compton Gifford. Torpoint in the county of Cornwall, within the distance of half a mile from the Ferry Gate. Ivy Bridge. The parishes of Plympton St. Maurice and Plympton St. Mary. Dartmouth.
Portsmouth - -	The limits of the following places and parishes; namely, The municipal borough of Portsmouth. The residue of the island of Portsea. The parish of Alverstoke. The township of Landport.
Sheerness - -	The limits of the parish of Minster, of the township of Queenborough, and of the Isle of Grain.
Shorncliffe - -	The limits of the following parishes; namely, Cheriton. Hythe. Folkstone. Walmer. Deal. Sholden. Mongeham. Ringwold. Ripple.
Southampton - -	The limits of the municipal borough of Southampton.
Winchester - -	The limits of the parliamentary borough of Winchester.
Windsor - -	The limits of the following parishes; namely, New Windsor, Old Windsor, Clewer, } in the county of Berks. Eton, Datchet, Upton, } in the county of Bucks.

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Names of Places.	Limits of Places.
Woolwich - - -	The limits of the following parishes and places; namely, Woolwich. Plumstead. Charlton. St. Paul } Deptford. St. Nicholas } Hamlet of Hatcham. St. Alphage, Greenwich.

IRELAND.

The Curragh - -	The limits of the following parishes; namely, Kilcullen. Kildare. Ballysax. Great Conwell. Morristown-beller.
Cork - - -	The limits of the borough of Cork for municipal purposes.
Queenstown - -	The limits of the town of Queenstown for the purposes of town improvement.

SECOND SCHEDULE.

Forms.

(A.)

Gazette Notice of Appointments.

London, 18 .

The Lords Commissioners of the Admiralty have [*or* the Secretary of State for War has] appointed *R.S.* to be visiting surgeon [*or* assistant visiting surgeon] for [*Portsmouth, or* the Lords Commissioners of the Admiralty and the Secretary of State for War have appointed *P.S.* to be inspector [*or* assistant inspector] of certified hospitals] under the Contagious Diseases Acts, 1866 to 1869.

(B.)

Certificate for Hospital provided by Admiralty, &c.

The Contagious Diseases Acts, 1866 to 1869.

In pursuance of the above-mentioned Acts, it is hereby certified by the commissioners for executing the office of Lord High Admiral of the United

Kingdom [*or* by Her Majesty's Principal Secretary of State intrusted with the seals of the War Department], that the following building [*or* part of a building], namely, [*here describe generally the building or part of building,*] has been provided by the said Lords Commissioners [*or* Secretary of State] as a hospital for the purposes of the said Acts. A.D. 1869.

Dated this day of 18 .

By order of the Lords Commissioners of the Admiralty.

Signed (*C.P.*)

Secretary of the Admiralty.

[*Or,*

By order of the Secretary of State for War.

Signed (*E.L.*)

Under-Secretary of State.]

(C.)

Certificate for Hospital not provided by Admiralty, &c.

The Contagious Diseases Acts, 1866 to 1869.

In pursuance of the above-mentioned Acts, it is hereby certified by the commissioners for executing the office of Lord High Admiral of the United Kingdom [*or* by Her Majesty's Principal Secretary of State intrusted with the seals of the War Department], that the following building [*or* part of a building], namely, [the lock wards of the Portsmouth, Portsea, and Gosport hospital, *or as the case may be,*] is useful and efficient as a hospital for the purposes of the said Acts.

Dated this day of 18 .

By order of the Lords Commissioners of the Admiralty.

(Signed) *C.P.*,

Secretary of the Admiralty.

[*Or*

By order of the Secretary of State for War.

(Signed) *E.L.*,

Under-Secretary of State.]

(D.)

Declaration of Withdrawal of Certificate.

The Contagious Diseases Acts, 1866 to 1869.

In pursuance of the above-mentioned Acts, it is hereby declared by the commissioners for executing the office of Lord High Admiral of the United Kingdom [*or* by Her Majesty's Principal Secretary of State intrusted with the seals of the War Department], that the certificate under the said Acts

A.D. 1869.

dated the day of , constituting the hospital [*or as the case may be*] a certified hospital under the said Acts, has been and the same is hereby withdrawn as from the day of 18 .

Dated this day of 18 .

By order of the Lords Commissioners of the Admiralty.

(Signed) *C.P.*,
Secretary of the Admiralty.

[*Or*

By order of the Secretary of State for War.

(Signed) *E.L.*,
Under-Secretary of State.]

(E.)

Information.

to wit. } The information of *C.D.* of , Superintendent of Police for [*or as the case may be*] under The Contagious Diseases Acts, 1866 to 1869, taken this day of 186 , before the undersigned, one of Her Majesty's justices of the peace in and for the said [*county*] of who says he has good cause to believe that *A.B.* is a common prostitute, and is resident within the limits of a place to which the said Acts apply, that is to say, at in the [*county*] of [*or* is a common prostitute, and being resident within fifteen miles of a place to which the said Act applies, that is to say, at in the county of , was within fourteen days before the laying of this information, that is to say, on the day of , within those limits [*or* outside of those limits], that is to say, at in the county of for the purpose of prostitution [in the company of men resident within those limits].

Taken and sworn before me the day and year first above mentioned.

(Signed) *L.M.*

(F.)

Notice for Attendance of Woman.

To. *A.B.* of

Take notice, that an information, a copy whereof is subjoined hereto, has been laid before me, and that, in accordance with the provisions of the Acts therein mentioned, the truth of the statements therein contained, will be inquired into before me, or some other justice, at , on the day of , at o'clock in the noon.

You are therefore to appear before me or such other justice at that place and time, and to answer to what is stated in the said information.

You may appear yourself, or by any person on your behalf.

A.D. 1869.

If you do not appear, you may be ordered, without further notice, to be subject to a periodical medical examination by the visiting surgeon under the said Acts.

If you prefer it, you may, by a submission in writing signed by you in the presence of the Superintendent of Police [*or as the case may be*], and attested by him, subject yourself to such a periodical examination.

If you do so before the time above appointed for your appearance, it will not be necessary for you to appear then before a justice.

Dated this day of

(Signed) *L.M.*
Justice of the peace for

[*Subjoin copy of information.*]

(G.)

Order subjecting Woman to Examination.

to wit. } Be it remembered, that on the day of in pursuance of The Contagious Diseases Acts, 1866 to 1869, I, one of Her Majesty's justices of the peace in and for the said [*county*] of do order that *A.B.* of , be subject to a periodical medical examination by the visiting surgeon for [*Portsmouth, or as the case may be*] for calendar months from this day, for the purpose of ascertaining at the time of each such examination whether she is affected with a contagious disease within the meaning of the said Acts, and that she do attend for the first examination at on the day of at o'clock in the noon.

(Signed) *L.M.*

(H.)

Voluntary Submission to Examination.

The Contagious Diseases Acts, 1866 to 1869.

I *A.B.* of , in pursuance of the above-mentioned Acts, by this submission, voluntarily subject myself to a periodical medical examination by the visiting surgeon for [*Portsmouth, or as the case may be*] for calendar months from the date hereof.

Dated this day of 18 .

(Signed) *A.B.*

Witness,
X.Y.,
Superintendent of police for [*or as the case may be.*]

A.D. 1869.

(J.)

Notice by Visiting Surgeon to Woman of Times, &c. of Examination.

To *A.B.* of

Take notice, that in pursuance of The Contagious Diseases Acts, 1866 to 1869, you are required to attend for medical examination as follows:

[*Here state times and places of examination.*]

Dated this day of 18 .

(Signed) *E.F.*,
Visiting surgeon for [*Portsmouth.*]

(K.)

Certificate of Visiting Surgeon.

In pursuance of The Contagious Diseases Acts, 1866 to 1869, I hereby certify that I have this day examined *A.B.* of , and that she is affected with a contagious disease within the meaning of those Acts; and the certified hospital in which she is to be placed under the said Acts is the hospital.

Dated this day of 18 .

(Signed) *E.F.*,
Visiting surgeon for [*Portsmouth.*]

(L.)

Certificate of Visiting Surgeon where Woman cannot properly be examined.

I hereby certify, that *A.B.*, on being examined by me this day, in pursuance of The Contagious Diseases Acts, 1866 to 1869, was in such a condition that I could not properly examine her, and I have reasonable ground to believe that she is affected with contagious disease within the meaning of those Acts, and the certified hospital in which she is to be placed under the said Acts is the hospital.

Dated this day of 18 .

(Signed) *E.F.*.
Visiting Surgeon for [*Portsmouth.*]

(M.)

Order of Visiting Surgeon for temporary Detention of Woman.

I hereby certify that *A.B.*, on attending this day for examination, in pursuance of The Contagious Diseases Acts, 1866 to 1869, was drunk, so that I

could not properly examine her, and I have reasonable ground to believe that she is affected with contagious disease within the meaning of those Acts, and I hereby order that she be detained in the lock-up [*or as the case may be*], at in accordance with the said Acts.

Dated this day of 18 .

(Signed) *E.F.*,
Visiting surgeon for [*Portsmouth*].

(N.)

Order by Inspector of Certified Hospitals for Transfer.

By virtue of the power in this behalf vested in me by The Contagious Diseases Acts, 1866 to 1869, I hereby order that *A.B.* of , now detained under those Acts in the certified hospital of for medical treatment, be transferred thence to the certified hospital of

Dated this day of 18 .

(Signed) *M.N.*,
Inspector of certified hospitals.

(O.)

Certificate for Detention beyond Three Months.

The Contagious Diseases Acts, 1866 to 1869.

We, the undersigned, hereby certify that the further detention for medical treatment of *A.B.* of , now an inmate of this hospital, is requisite.

Dated this day of 18 , at the hospital.

(Signed) *M.N.*,
Inspector of certified hospitals,
[*or as the case may be,*]
G.H.,
Chief medical officer.

(P.)

Discharge from Hospital.

In pursuance of The Contagious Diseases Acts, 1866 to 1869, I hereby discharge *A.B.* of from this hospital [*add according to the fact,* and certify that she is now free from a contagious disease].

Dated this day of 18 , at the hospital.

(Signed) *G.H.*,
Chief medical officer.

A.D. 1869

(Q.)

Certificate on Discharge from Imprisonment.

THE CONTAGIOUS DISEASES ACTS, 1866 to 1869.

WHEREAS under the above-mentioned Acts, *A.B.* of was on the day of convicted of the offence of and has since been imprisoned for that offence in the gaol of and is now discharged from imprisonment therein: Now in pursuance of the said Acts, I hereby certify that she is now free from a contagious disease.

Dated this day of .

R.O.,
Surgeon of the gaol of ,
[*or E.F.*,
Visiting Surgeon for *Portsmouth*].

(R.)

Notice to Woman leaving Hospital.

THE CONTAGIOUS DISEASES ACTS, 1866 to 1869.

To *A.B.*

As you are now leaving this hospital, I hereby, in pursuance of the above-mentioned Acts, give you notice that you are still affected with a contagious disease.

Dated this day of .

(Signed) *G.H.*,
Chief medical officer.

Note.—The above-mentioned Acts provide as follows:—

If on any woman leaving a certified hospital a notice [*set out section of Act*].

(S.)

Certificate on last foregoing Notice or Copy.

IN pursuance of the within-mentioned Acts, I hereby certify that the within-named woman is now free from a contagious disease.

Dated this day of

(Signed) *E.F.*
Visiting Surgeon for [*Portsmouth*].

A.D. 1869.

(T.)

Application to be relieved from Examination.

To *L.M.*, Esq., and others, Her Majesty's justices of the peace for the [*county*] of [*or* to *N.O.*, Esq., Visiting Surgeon for *Portsmouth, or as the case may be*].

I *A.B.* of , being in pursuance of The Contagious Diseases Acts, 1866 to 1869, subject to a periodical medical examination on my own submission [*or* under the order of *L.M.*, Esq., *as the case may be*], dated the day of , do hereby apply to be relieved therefrom.

Dated this day of 18 .

(Signed) *A.B.*

Witness, *G.W.*

Contagious Diseases.
[H.L.]

A

B I L L

INTITULED

An Act to amend the Contagious Diseases Act, 1866.

(*Brought from the Lords* 2 *August* 1869.)

Ordered, by The House of Commons, *to be Printed,* 2 *August* 1869.

[Bill 255.]

Under 2 *oz.*

Contagious Diseases (Animals) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.
2. Extent of Act.
3. Construction of Act.
4. Perpetuation of Acts.
5. Restriction on landing of foreign animals.
6. Foreign animals to be taken to approved place for slaughter.
7. Acquisition of sites by provisional order, regulation of markets, and application of receipts.
8. Power to give estates, &c. as security in lieu of, or besides, rates.
9. Approval of several places in district, and application by local authority for approval.
10. Power for Privy Council to require local authority to provide separate place, &c.
11. Proceedings by Board of Trade.
12. Power to make exemptions, allow quarantine, &c.
13. Acts, charters, &c. not to interfere with Act.
14. Saving for past orders.

A

B I L L

TO

Amend and perpetuate the Acts relating to contagious or infectious Diseases among Cattle and other Animals; and for other Purposes. A.D. 1869.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as The Contagious Diseases (Animals) Act, 1869.

Extent of Act.

2. This Act shall not extend to Ireland.

Construction of Act. (30 & 31 Vict. c. 125.)

3. This Act shall be read as one Act with The Contagious Diseases Animals Acts (described in section three of The Contagious Diseases (Animals) Act, 1867,) as far as they remain in force after the passing of this Act, which Acts are in this Act referred to as the former Acts; and for that purpose the term "this Act" where used in any of the former Acts shall be construed to include the present Act, and where used in this Act shall be construed to include each of the former Acts, unless there is something in the subject or context inconsistent with that construction; and the former Acts and this Act may be cited together as The Contagious Diseases (Animals) Acts.

Perpetuation of Acts.

4. The former Acts as far as they are in force at the passing of this Act shall be and the same are hereby made perpetual, subject to the provisions of this Act.

Restriction on landing of foreign animals.

5. Foreign animals shall not be landed in Great Britain except at ports from time to time prescribed in that behalf by the Privy Council, in accordance with section forty-six of The Contagious Diseases (Animals) Act, 1867.

Foreign animals to be taken to approved place for slaughter.

6. All foreign animals landed as aforesaid shall be landed within the part or parts of the port defined in that behalf by the Privy Council, and according to such regulations as the Privy Council

A.D. 1869.

from time to time prescribe, and shall within such time as the Privy Council appoint be taken to a place or places approved by the Privy Council adjoining or near to the place or places of landing, and shall not be removed thence alive, and in the meantime shall be kept separate from all animals not being foreign animals, and all animals from time to time within any place so approved shall be dealt with as foreign animals; provided that the Privy Council may, if they think fit, with respect to any foreign animals landed at any port, suspend for a period or periods not exceeding in any case in the whole three years from the passing of this Act the operation of this section as far as it relates to separation.

Acquisition of sites by provisional order, regulation of markets, and application of receipts.

21 & 22 Vict. c. 98. s. 75.

7. In addition to the Provisions of section forty-seven of The Contagious Diseases (Animals) Act, 1867, and other provisions of the former Acts relative to powers of a local authority respecting disposal of foreign animals, the following provisions shall have effect:

(1.) For the purpose of the acquisition of places for the landing, reception, sale, and slaughter of foreign animals, section seventy-five of The Local Government Act, 1858, shall apply and have effect as if the local authority were a local board acting under The Local Government Act, 1858, and the purposes of The Contagious Diseases (Animals) Acts were purposes of that Act; save that the advertisements and notices requisite under the last-mentioned section may be published and served in any two consecutive months instead of only in the months therein specified; and the powers for the acquisition of sites referred to in or conferred by this section may be exercised by a local authority with respect to lands either within or without their district:

(2.) The Markets and Fairs Clauses Act, 1847, shall be deemed to be incorporated with section forty-seven of The Contagious Diseases (Animals) Act, 1867; and for the purposes of the application and construction of The Markets and Fairs Clauses Act, 1847, in conjunction with that section, any place provided by a local authority under that section shall be deemed a market, and that section shall be deemed the special Act, and the prescribed limits shall be deemed to be the limits of the lands acquired for the purposes of that section, and byelaws shall be approved by the Privy Council, which approval shall be sufficient without any other approval or any allowance thereof (notice of application for such approval being

nevertheless given, and proposed byelaws being published before application for approval, in like manner as under that Act notice of application for allowance, and publication before that application, are required to be made):

(3.) Money received by a local authority from charges made by them under section forty-seven of The Contagious Diseases (Animals) Act, 1867, shall be carried to a separate account, and shall be applied in payment of interest on money borrowed for the purposes of that section, and in repayment of the principal thereof, and subject thereto towards expenses incurred by the Local Authority in the execution of The Contagious Diseases (Animals) Acts:

(4.) The provisions of this section shall, as far as they are applicable, have effect in respect of any place for the time being provided by a local authority under section forty-seven of The Contagious Diseases (Animals) Act, 1867, whether the same has been provided before the passing of this Act, or is from time to time provided after the passing of this Act.

Power to give estates, &c. as security in lieu of, or besides, rates.

8. A local authority on exercising for the purposes of this Act the borrowing powers vested in them under sections twenty-two, twenty-three, and twenty-four of The Cattle Diseases Prevention Act, 1866, and under The Cattle Diseases Prevention Amendment Act, 1866, may give as security for repayment of money borrowed with interest (either together with the local rate, if any, or separately therefrom) the charges which they are authorized by section forty-seven of The Contagious Diseases (Animals) Act, 1867, to make for the use of places provided by them thereunder, and any estates, revenues, or funds belonging to them and not otherwise appropriated by law.

Approval of several places in district, and application by local authority for approval.

9. Nothing in this Act shall prevent the Privy Council from approving of more places than one within the district of a local authority as places for the landing, reception, sale, and slaughter of foreign animals, or any one or more of those purposes; but the Privy Council shall not approve of any place as a place for the landing, reception, sale, or slaughter of foreign animals, unless either the same is provided by the Local Authority or the approval of the Privy Council with respect to the same is applied for by the Local Authority.

Power for Privy Council to require local autho-

10. At any time after the passing of this Act the Privy Council may, by notice in writing addressed to a local authority, require that local authority to provide within a time specified in the notice, not being in any case less than one year or more than

A.D. 1869.

rity to provide separate place, &c.

three years after the delivery of the notice, a separate place or separate places for the landing, reception, sale, and slaughter of foreign animals, or for any one or more of those purposes, and thereupon that local authority shall, within that time, provide a separate place or separate places accordingly, to the satisfaction of the Privy Council; and if the local authority fails to do so within the time specified in the notice, or within such enlarged time, if any, as the Privy Council may from time to time allow, (which allowance the Privy Council are hereby authorized to make, provided that such time shall in no case exceed, in the whole, three years from the passing of this Act,) the Privy Council may certify the same to the Board of Trade.

Proceedings by Board of Trade.

11. On a certificate being made under this Act the Board of Trade shall, in lieu of the local authority, have all the powers vested in the local authority under The Contagious Diseases (Animals) Acts in relation to disposal of foreign animals, including the power of making charges for the use of places provided for the reception, sale, and slaughter thereof, and the power of borrowing from the Public Works Loan Commissioners conferred by section four of The Cattle Diseases Prevention Amendment Act, 1866, but without the restriction imposed by that section on the borrowing powers of local authorities with reference to the amount of rate.

Power to make exemptions, allow quarantine, &c.

12. Notwithstanding anything in this Act, the Privy Council may, from time to time, exempt from the provisions of this Act, or any of them, classes of foreign animals, or foreign animals imported from specified countries in which no cattle plague has existed for three years; and nothing in this Act shall interfere with the authority of Her Majesty in Council or of the Privy Council to make regulations for subjecting foreign animals to quarantine and for allowing animals subjected to quarantine to be removed alive beyond the limits of the port of landing.

Acts, Charters, &c. not to interfere with Act.

13. This Act shall have full effect notwithstanding anything contained in any former Act, public, local, or private, and notwithstanding any charter, franchise, prescription, or right whatsoever.

Saving for past orders.

14. Nothing in this Act shall invalidate or interfere with the operation of any order made before the passing of this Act by the Privy Council under the authority of section forty-six of The Contagious Diseases (Animals) Act, 1867, and every such order shall continue to operate and may be revoked or altered as if this Act had not been passed.

Contagious Diseases (Animals).

A

BILL

To amend and perpetuate the Acts relating to contagious or infectious Diseases among Cattle and other Animals; and for other Purposes.

(*Prepared and brought in by Lord Robert Montagu and Mr. Selwin-Ibbetson.*)

Ordered, by The House of Commons, *to be Printed,* 17 *February* 1869.

[Bill 1.]

Under 1 *oz.*

Contagious Diseases (Animals) (No. 2) Bill.

ARRANGEMENT OF CLAUSES.

	Provisions of former Acts.*	
Part I.—Preliminary.		
1. Short title.		
2. Extent of Act.		
3. Division of Act into parts.		
4. Repeal of Acts in schedule.		
5. Definition, &c. of Privy Council	1866 (II.) s. 3.	1867, s. 4.
6. Interpretation of terms as to animals, &c.	1866 (I.) s. 3.	
7. Definition of boroughs and other places	1866 (I.) s. 3.	
8. Effect of schedules.		
Part II.—Local Authorities.		
9. Local authorities, &c. in schedule	1866 (I.) s. 4.	
10. Local authority in city of London	1866 (I.) s. 4.	
11. Appointment of committees	1866 (I.) s. 8.	1867, s. 7.
Inspectors and Officers.		
12. Appointment of inspectors and other officers by the local authority.	1866 (I.) s. 9.	
13. Removal of inspectors	1867, s. 8.	
14. Reports to Privy Council, &c.	1867, s. 31.	
Part III.—Foreign Animals.		
15. Power to define ports	1867, s. 46.	
16. Power to prohibit landing	1848 (I.) s. 1.	
17. Power to apply regulations in schedule to landing in specified cases.	1867, s. 46.	
18. Power to vary regulations	1867, s. 46.	

* The former Acts are enumerated in the first schedule to the bill.
The short references to them (except the first of them, which being obsolete is not referred to) in this table and in the margins of the clauses are as follows :—

1848 (I.)—11 & 12 Vict. c. 105.
1848 (II.)—11 & 12 Vict. c. 107.
1853.—16 & 17 Vict. c. 62.
1866 (I.)—29 & 30 Vict. c. 2.
1866 (II.)—29 & 30 Vict. c. 15.
1866 (III.)—29 & 30 Vict. c. 110.
1867.—30 & 31 Vict. c. 125.

	Provisions of former Acts.
19. Provision respecting animals within port, &c.	
20. Power to impose quarantine - -	1848 (I.) s. 2.
21. Punishment for wrongful landing, &c. -	1848 (I.) s. 3.
22. Provision of wharves, lairs, &c. - -	1867, s. 47.
23. Incorporation of Markets, &c. Clauses Act.	
24. Charges for use of wharves, &c. - -	1867, s. 47.
25. Power to give as security charges, estates, &c.	
26. Separate account and application of money received.	
27. Continuance of defined part where market, &c. provided.	

PART IV.—DISCOVERY AND PREVENTION OF DISEASE.

28. Inspector to proceed on information - -	1867, s. 9.
29. Power of entry for inspector, &c. - -	1866 (I.) s. 10.
30. Evidence of disease - - - -	1866 (I.) s. 9.

Infected Places: Cattle Plague and Sheep-pox.

31. Provisional declaration of infected place by inspector.	1867, s. 11.
32. Determination and declaration of local authority.	1867, s. 12.
33. Declaration of infected place by local authority or Council.	1867, s. 13.
34. Extent of area on declaration by local authority.	1867, s. 14.
35. Extension of area into district of other authority.	1867, s. 16.
36. Extent of infected place under declaration by Council.	1867, s. 14.
37. Area of infected places in metropolis -	1867, s. 19.
38. Description of infected place - - -	1867, s. 17.
39. Notice of declaration - - -	1867, s. 18.
40. Order evidence of disease - - -	1866 (II.) s. 8.
41. Rules in schedule - - - -	1867, s. 21.
42. Offences as to infected places - -	1867, s. 22.
43. Exception for railways - - -	1867, s. 23.
44. Power to Council to make rules as to infected places.	1867, ss. 21, 24.
45. Duties of local authorities, &c. -	1867, s. 25.
46. Authority of constable - - -	1867, s. 26.
47. Discontinuance of declaration of infected places.	1867, s. 27.
48. Report to Council - - - -	1867, s. 28.

	Provisions of former Acts.
49. Effect of orders of Council	1867, s. 20.
50. Restriction on movement, &c. near infected places.	1867, s. 29.
Pleuro-pneumonia.	
51. Provisional declaration as to pleuro-pneumonia by inspector.	
52. Determination and declaration by local authority as to pleuro-pneumonia.	
Miscellaneous.	
53. Forms in schedule	1867, s. 53.
54. Exposure for sale of diseased animals	1848 (II.) s. 1. 1853, s. 1. 1867, s. 49.
55. Turning out of diseased animals on uninclosed lands, &c.	1848 (II.) s. 2. 1853, s. 1.
56. Trespass on land	1866 (II.) s. 11.
57. Burial of diseased animals	1866 (I.) s. 13.
58. Purification of sheds, &c. of diseased animals	1866 (I.) s. 14.
59. Railway companies, &c. to disinfect carriages, boats, &c.	1867, s. 48.
60. Regulations for disinfecting	1867, s. 50.
61. Water and food on railways.	

Part V.—Slaughter in Cattle Plague; Compensation.

62. Slaughter in cattle plague	1866 (I.) s. 12.
63. Slaughter of cattle herded with diseased animals.	1866 (I.) s. 15.
64. Slaughter to ascertain disease	1867, s. 15.
65. Reservation for experimental treatment	1867, s. 15.
66. Compensation on slaughter	1866 (I.) s. 12. 1867, s. 15.
67. Compensation for slaughter of cattle herded with diseased animals.	1866 (I.) s. 15.
68. Power to ascertain value of slaugtered animals.	1866 (I.) s. 16.
69. Restrictions on compensation	1866 (I.) s. 17. 1867, s. 32.
70. Amount of insurance to be recovered	1866 (I.) s. 20.

Part VI.—Orders of Council and Local Authorities, &c.

71. Power for Council to make orders	1848 (II.) s. 4. 1866 (II.) s. 4.
72. Privy Council inspectors	1866 (I.) s. 9.
73. Provisions for towns, &c.	1867, s. 30.

	Provisions of former Acts.
74. Regulation, &c. of landing of hay, &c. -	1848 (I.) s. 2.
75. Directions of Council and local authority -	1866 (II.) s. 4.
76. Expenses of execution order - -	1867, s. 36.
77. Publication, orders, &c. - - -	1848 (II.) s. 5. 1866 (II.) s. 7.
78. Instrument may be in print, &c. - -	1867, s. 52.
79. Stamp duty and fees not to be paid -	1866 (I.) s. 9. 1866 (II.) s. 9.
80. Evidence of orders - - -	1866 (II.) s. 8.
81. Recovery of penalties.	
82. Saving for existing orders.	

PART VII.—LANDS.

83. Acquisition of land by local authority -	1866 (I.) s. 26.
84. Conveyance, &c. of lands.	
85. Purchase under Provisional Order -	21 & 22 Vict. c. 98. s. 75.

PART VIII.—EXPENSES OF LOCAL AUTHORITIES.

86. General expenses of local authority -	1866 (I.) s. 18.
87. Expenses for compensation - - -	1867, s. 33.
88. Expenses to be specified in precepts and orders.	1866 (III.) s. 5.
89. Variation of forms of precepts and orders -	Ibid. s. 6.
90. Advance of moneys by treasurer of local authority.	Ibid. s. 7.
91. Saving of statutes applicable to rates leviable for expenses.	Ibid. s. 8.
92. Error in statement not to vitiate precept, &c.	Ibid. s. 9.

Borrowing.

93. Mortgages of rates in certain cases -	1866 (I.) s. 22.
94. Further power where expenses exceed one shilling in pound.	1866 (III.) s. 4.

Rate in aid.

95. Half-yearly accounts of compensation -	1867, s. 37.
96. Application to Poor Law Board by local authority for audit.	Ibid. s. 38.
97. Regulations respecting audit - -	Ibid. s. 39.
98. Power for Poor Law Board to make order of contribution.	Ibid. s. 40.

	Provisions of former Acts.
99. Basis for contribution	1867, s. 41.
100. Contribution to be a debt	Ibid. s. 42.
101. Raising of money for contribution	Ibid. s. 43.
102. Payment of money for contribution	Ibid. s. 44.
103. Provision against disputing of orders of Poor Law Board, &c.	Ibid. s. 45.

PART IX.—OFFENCES AND LEGAL PROCEEDINGS.

104. Penalty for disobedience to Act or order	1866 (I.) s. 27. 1867, s. 55.
105. Penalties on use of expired licences, &c.	1867, s. 54. 1866 (III.) s. 10.
106. Punishment for obstructing inspectors, &c.	1848 (II.) s. 7. 1866 (I.) s. 10.
107. Application of penalties	1866 (II.) s. 5.
108. Appearance of companies, &c.	1866 (I.) s. 30.
109. Appeal	1866 (I.) s. 31.
110. Jurisdiction for trial of offences, &c.	1867, s. 56.

Protection of persons in execution of Act.

111. Actions against persons executing Act not to be brought without notice, &c.	Ibid. s. 57.
112. Plea in action	Ibid. s. 58.
113. Evidence in action	Ibid. s. 59.
114. Tender of amends, &c.	Ibid. s. 60.
115. Costs of defendant	Ibid. s. 61.
116. Costs, &c. of defence to actions, &c. under direction of local authority.	Ibid. s. 62.

PART X.—SCOTLAND.

117. Application of part to Scotland.	
118. Local authority, &c.	1866 (I.) s. 4.
119. Appointment of local authority in counties	1866 (I.) s. 5. 1867, s. 6.
120. Mode of levying and recovering assessments.	1866 (I.) s. 21. 1867, s. 35.
121. Certificate of copy for evidence	1866 (II.) s. 8.
122. Jurisdiction under 27 & 28 Vict. c. 53.	1866 (II.) s. 6.
123. Local authority may apply to procurator fiscal.	1866 (I.) s. 28.
124. Sheriff to have concurrent jurisdiction	1866 (I.) s. 29.
125. Notice of appeal	1866 (I.) s. 31.

	Provisions of former Acts.
SCHEDULES.	
The first schedule: *Acts repealed.*	
The second schedule - - - *Local authorities, &c. in England.*	1866 (I.) schedule.
The third schedule - - - - - *Regulations respecting Committees and Sub-Committees.*	1866 (I.) s. 8. 1867, s. 5.
The fourth schedule: *Regulations that may be applied to landing, movement, and disposal of foreign animals.*	
The fifth schedule - - - - - *Rules respecting infected places.*	1867, s. 21.
The sixth schedule: *Pleuro-Pneumonia Rules.*	
The seventh schedule - - - - - *Forms for Use by Inspector.*	1867, second schedule.
The eighth schedule: *Regulations respecting Audit.*	
The ninth schedule - - - - *Local authorities, &c. in Scotland.*	1866 (I.) schedule.

A

B I L L

TO

Consolidate, amend, and make perpetual the Acts for preventing the introduction or spreading of Contagious or Infectious Diseases among Cattle and other animals in Great Britain. A.D. 1869.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Part I.—Preliminary.

Short title.

1. This Act may be cited as The Contagious Diseases (Animals) Act, 1869.

Extent of Act.

2. This Act shall not extend to Ireland.

Division of Act into parts.

3. This Act is divided into parts, as follows :—

Part I.—Preliminary.
Part II.—Local authorities.
Part III.—Foreign animals.
Part IV.—Discovery and prevention of disease.
Part V.—Slaughter in cattle plague : compensation.
Part VI.—Orders of council and of local authorities.
Part VII.—Lands.
Part VIII.—Expenses of local authorities.
Part IX.—Offences and legal proceedings.
Part X.—Scotland.

Repeal of Acts in schedule.

4. The Acts described in the first schedule to this Act are hereby repealed, but this repeal shall not extend to Ireland, or affect the past operation of any of those Acts, or the validity or invalidity of anything done or suffered, or any order, regulation, or appointment made, or any licence granted, or any right, title, obligation, or liability accrued thereunder, before the passing of this Act; nor shall this repeal interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty or forfeiture incurred under, any of the

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Acts repealed by this Act, or any order or regulation made thereunder.

Definition, &c. of Privy Council. 1866 (II.) s. 3. 1867, s. 4.

5. In this Act the term "the Privy Council" means the lords and others of Her Majesty's Most Honourable Privy Council.

All or any powers by this Act conferred on the Privy Council may be exercised by those lords and others or any two or more of them.

Powers by this Act conferred on the Privy Council may, as regards the making of orders affecting only specified ports, towns, or places, or parts thereof, and as regards the issuing and revocation of licences under any Order of Council, be exercised by the Lord President of the Council or one of Her Majesty's Principal Secretaries of State.

Interpretation of terms as to animals, &c. 1866 (I.) s. 3.

6. In this Act—

The term "cattle" means bulls, cows, oxen, heifers, and calves:

The term "animal" means, except where it is otherwise expressed, cattle, sheep, goats, and swine:

The term "foreign," as applied to cattle or animals, means brought from any place out of the United Kingdom:

The term "cattle plague" means the rinderpest, or disease commonly called the cattle plague:

The term "contagious or infectious disease" includes cattle plague, pleuro-pneumonia, foot and mouth disease, sheep-pox, sheep-scab, and glanders, and any disease which the Privy Council from time to time by order declare to be a contagious or infectious disease for the purposes of this Act:

The term "person" includes a body corporate or unincorporate.

Definition of boroughs and other places. 1866 (I.) s. 3.

7. In this Act—

The term "borough" means a place which is for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth (chapter seventy-six), "to provide for the regulation of municipal corporations in "England and Wales," and which is not assessed to the county rate of any county by the justices of that county:

The term "county" does not include a county of a city or county of a town, but includes any riding, division, or parts of a county, having a separate commission of the peace:

The term "metropolis" includes all parishes and places in which the Metropolitan Board of Works have power to levy a main drainage rate.

For the purposes of this Act, the liberty of St. Albans, the liberty of the Isle of Ely, and the soke of Peterborough shall respectively be deemed separate counties, but all other liberties and franchises

of counties shall be considered as forming part of the county by which they are surrounded, or if partly surrounded by two or more counties, then as forming part of that county with which they have the longest common boundary.

Every place that is not a borough, a county, or part of the Metropolis as respectively defined in this Act, or is not separately mentioned in the second schedule to this Act, shall be deemed to form part of a county as defined in this Act to the county rate whereof it is assessed, or if it is not so assessed, then of the county within which it is situate.

8. The schedules to this Act shall be construed and have effect as part of this Act. Effect of schedules.

Part II.—Local Authorities.

9. For the purposes of this Act, the respective districts, authorities, rates or funds, and officers described in the second schedule to this Act, shall be the district, the local authority, the local rate, and the clerk of the local authority. Local authorities, &c. in schedule. 1866 (I.) s. 4.

10. Notwithstanding anything in this Act or the second schedule thereto, within the city of London and the liberties thereof, the court of the Lord Mayor and Aldermen shall, for all the purposes of this Act, except that of making a rate, be the local authority, and the town clerk shall be the clerk of the local authority, but for the purpose of making a rate for the purposes of this Act the Metropolitan Board of Works shall be the local authority. Local authority in city of London. 1866 (I.) s. 4.

11. With respect to committees of a local authority, the following provisions shall have effect:— Appointment of committees. 1866 (I.) s. 8. 1867, s. 7.

(1.) A local authority may form a committee or committees, and may delegate to any such committee all or any powers conferred on the local authority by this Act, except the power to make a rate:

(2.) A local authority may from time to time revoke or alter any power so given to a committee:

(3.) A local authority may appoint and designate any such committee as their executive committee, for the purposes of this Act:

(4.) Such an executive committee shall have all the powers of the local authority under this Act, except the power to make a rate, and may appoint a sub-committee or sub-committees, and delegate to them all or any powers of the executive committee, with or without conditions or

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restrictions, and from time to time revoke or alter any such delegation, and fix the quorum, and add to or diminish the number of the members, or otherwise alter the constitution of a sub-committee, and lay down rules for the guidance of a sub-committee, who shall act accordingly:

(5.) Proceedings of a committee shall not be invalidated by any vacancy in the committee, or, in case of a committee appointed by general or quarter sessions of a county, by the termination of the sessions at which they were appointed:

(6.) In case of the formation of two or more committees, they shall act according to rules laid down for their guidance by the local authority:

(7.) The regulations contained in the third schedule to this Act shall have effect with respect to committees and sub-committees.

Inspectors and Officers.

Appointment of inspectors and other officers by the local authority. 1866 (I.) s. 9. 1867, s. 8.

12. Every local authority shall from time to time appoint so many inspectors and other officers as appear to the local authority necessary for the execution of this Act, and shall assign them such duties and award them such salaries or allowances as the local authority think fit, and may at any time revoke any appointment so made, but so that every local authority shall at all times keep appointed at least one inspector.

Removal of inspectors. 1867, s. 8.

13. The Privy Council, if satisfied on inquiry that an inspector appointed by a local authority is incompetent, or has been guilty of misconduct or neglect in the discharge of his duty, may, if they think fit, remove him, and thereupon the local authority shall appoint another person to fill the vacancy.

Reports to Privy Council, &c. 1867, s. 31.

14. Every local authority, and every inspector appointed by a local authority, shall make such reports to the Privy Council as the Privy Council from time to time require.

PART III.—FOREIGN ANIMALS.

Power to define ports. 1867, s. 46.

15. The Privy Council may from time to time by order define the limits of ports for the purposes of this part of this Act.

Power to prohibit landing. 1848 (I.) s. 1.

16. The Privy Council may from time to time by order, in relation to foreign animals, or to any specified kind or class of foreign animals, or to foreign animals brought from any specified country or place, prohibit the landing thereof either generally, or in

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any specified port, or in any defined part thereof, or elsewhere than in some specified port or ports, or than in some defined part or parts thereof.

This section shall extend to horses and other animals not within the definition of animals in this Act.

Power to apply regulations in schedule to landing in specified cases. 1867, s. 46.

17. The Privy Council may from time to time by order apply to the landing, either generally, or with specified exceptions, or in some specified port, or in some defined part thereof, of foreign animals, or of any specified kind or class of foreign animals, or of foreign animals brought from any specified country or place, and to the movement and disposal thereof when landed, the regulations contained in the fourth schedule to this Act.

Power to vary regulations. 1867, s. 46.

18. The Privy Council may from time to time by order, in relation to foreign animals, or to any specified kind or class of foreign animals, or to foreign animals brought from any specified country or place, add to or vary the regulations contained in the fourth schedule to this Act.

Provision respecting animals within port, &c.

19. Where the regulations contained in the fourth schedule to this Act (with or without addition or variation) are in operation in respect of a port or a defined part thereof, then all animals for the time being within that port or defined part shall, subject to any order of the Privy Council to the contrary, be deemed foreign animals.

Power to impose quarantine. 1848 (I.) s. 2.

20. The Privy Council may from time to time by order make such regulations as they think expedient for subjecting to quarantine foreign animals, or any specified kind or class of foreign animals, or foreign animals brought from any specified country or place.

This section shall extend to horses and other animals not within the definition of animals in this Act.

Punishment for wrongful landing, &c. 1848 (I.) s. 3.

21. If any person lands or attempts to land any foreign animal in contravention of any order of the Privy Council, the animal shall be forfeited in like manner as goods the importation whereof is prohibited by the Acts relating to the Customs are liable to be forfeited; and the person so offending shall be liable to such penalties as are imposed on persons importing or attempting to import goods the importation whereof is prohibited by the Acts relating to the Customs, without prejudice to any proceeding against him under this Act or any such order.

Provision of wharves, lairs, &c. 1867, s. 47.

22. A local authority may provide, erect, and fit up wharves, lairs, sheds, markets, houses, and places for the landing, reception, sale, and slaughter of foreign animals.

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Incorporation of Markets, &c. Clauses Act.

23. There shall be incorporated with this part of this Act The Markets and Fairs Clauses Act, 1847; and for the purposes of the application and construction of that Act in conjunction with this part of this Act any place provided by a local authority under this part of this Act for the landing, reception, sale, or slaughter of foreign animals shall be deemed a market, and this part of this Act shall be deemed the special Act, and the prescribed limits shall be deemed to be the limits of the lands acquired for the purposes of this part of this Act; and byelaws shall be approved by the Privy Council, which approval shall be sufficient, without any other approval or any allowance thereof (notice of application for such approval being nevertheless given, and proposed byelaws being published before application for approval, in like manner as under that Act notice of application for allowance and publication before that application are required to be made).

Charges for use of wharves, &c. 1867, s. 47.

24. A local authority may charge for the use of any wharf, lair, shed, market, house, or place provided by them under this part of this Act such sums as they from time to time, with the approval of the Privy Council, appoint.

Power to give as security charges, estates, &c.

25. A local authority, on exercising for the purposes of this part of this Act, the borrowing powers vested in them under this Act, may, if they think fit, give as security for repayment of money borrowed with interest (either together with the local rate, if any, or separately therefrom) the charges which they are authorized to make under this part of this Act, and any estates, revenues, or funds belonging to them and not otherwise appropriated by law.

Separate account and application of money received.

26. All money received by a local authority from charges made by them under this part of this Act shall be carried to a separate account, and shall be applied in payment of interest on money borrowed by them for the purposes of this part of this Act, and in repayment of the principal thereof, and subject thereto towards discharge of expenses incurred by them in the execution of this Act.

Continuance of defined part where market, &c. provided.

27. Where a local authority, with the approval of the Privy Council, provide, erect, and fit up within a part of a port defined by the Privy Council as a place where foreign animals may be landed, any wharf, lair, shed, market, house, or place for the landing, reception, sale, or slaughter of foreign animals, it shall not be lawful for the Privy Council to alter the definition of the part or parts of that port at which foreign animals may be landed, so as to exclude therefrom the site of such wharf, lair, shed, market, house, or place, except with the consent of the local authority.

PART IV.—DISCOVERY AND PREVENTION OF DISEASE. A.D. 1869.

Inspector to proceed on information. 1867, s. 9.

28. An inspector of a local authority, on receiving information of the supposed existence of cattle plague, pleuro-pneumonia, or sheep-pox in any place within his district, shall proceed to that place with all practicable speed, and execute and discharge the powers and duties by law conferred and imposed on him as inspector.

Power of entry for inspector, &c. 1866 (I.) s. 10.

29. An inspector or other officer of a local authority authorized to act in the execution of this Act may at any time enter any field, stable, cow-shed, or other premises within his district, where he has reasonable grounds for supposing that any animal affected with cattle plague, pleuro-pneumonia, or sheep-pox is to be found, for the purpose of executing this Act, but shall, if required, state in writing the grounds on which he has so entered.

If any person refuses admission to such inspector or officer acting under this section, he shall be deemed guilty of an offence against this Act.

Evidence of disease. 1866 (I.) s. 9.

30. The certificate of an inspector of a local authority to the effect that an animal is affected with cattle plague, pleuro-pneumonia, or small-pox, shall for the purposes of this Act be conclusive evidence in all courts of justice and elsewhere of the matter certified.

Infected Places: Cattle Plague and Sheep-Pox.

Provisional declaration of infected place by inspector. 1867, s. 11.

31. Where an inspector finds cattle plague or sheep-pox to exist within his district, he shall forthwith make a declaration thereof under his hand, and shall deliver a notice under his hand of such declaration to the occupier of the field, stable, cowshed, or other premises where the disease is found, and thereupon the same, with all lands and buildings contiguous thereto in the same occupation, shall become and be an infected place, and the same shall continue to be an infected place until the determination and declaration of the local authority relative thereto in this Act provided for.

Determination and declaration of local authority. 1867, s. 12.

32. Where an inspector makes such a declaration of the existence of cattle plague or sheep-pox, he shall with all practicable speed send a copy thereof to the Privy Council, and deliver the declaration to the local authority, who shall inquire into the correctness thereof, and if it appears to them that cattle plague or sheep-pox existed as declared by the inspector, they shall so determine and declare, and shall prescribe the limits of the infected place; but if it appears to them that cattle plague or sheep-pox did not exist as declared by the inspector, and the same is certified to them in writing by one or more duly qualified veterinary surgeon or surgeons, they shall so determine and declare, and thereupon the

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place comprised in the inspector's declaration, or affected thereby, shall cease to be an infected place.

Declaration of infected place by local authority or Council. 1867, s. 13.

33. A local authority with respect to any place within their district, and the Privy Council with respect to any place in Great Britain, may from time to time by order declare any field, stable, cowshed, or other premises in which cattle plague or sheep-pox exists at the date of the order or has existed within seven days before that date, with or without a further area, to be from and after a time specified in the order an infected place.

Extent of area on declaration by local authority. 1867, s. 14.

34. The area of an infected place may in all cases of a declaration by a local authority include, with the field, stable, cowshed, or other premises in which cattle plague or sheep-pox has been found to exist, all lands and buildings lying contiguous thereto, being in the same occupation, and within the district of the local authority, and also (except in the metropolis) an area comprised within one mile from the boundaries of those lands in every direction, but no more.

Extension of area into district of other authority. 1867, s. 16.

35. A local authority may include in the area of an infected place any adjoining part of the district of another local authority, with the previous consent of that authority in writing signed by their clerk, but not otherwise.

Extent of infected place under declaration by council. 1867, s. 14.

36. The area of an infected place may in all cases of a declaration by the Privy Council include, with the field, stable, cowshed, or other premises in which cattle plague or sheep-pox has been found to exist, such an area as to the Privy Council seems requisite.

Area of infected places in metropolis. 1867, s. 19.

37. With respect to the metropolis the Privy Council may from time to time by order extend the limits of an infected place beyond the boundaries of the field, stable, cowshed, farm, or premises where cattle plague is declared or found to exist.

Description of infected place.

38. The area of an infected place may in any case be described by reference to a map deposited at some specified place, or by reference to townships, parishes, farms, or otherwise.

Notice of declaration 1887, s. 18.

39. An order of a local authority declaring a place to be an infected place shall be published by the local authority by notices posted in and near the infected place, and in such other manner (if any) as they think expedient.

An order of the Privy Council declaring a place to be an infected place shall be published in like manner by and at the expense of any local authority to whom the same is sent by the Privy Council for publication.

Any want of or defect or irregularity in publication shall not invalidate any order.

Order evidence of disease. 1866 (II.) s. 8.

40. An order of a local authority or of the Privy Council declaring a place to be an infected place shall be conclusive evidence in all courts of justice and elsewhere of the existence of disease and other matters on which the order proceeds.

Rules in schedule. 1867, s. 21.

41. The rules set forth in the fifth schedule to this Act shall have effect with respect to infected places (which rules are in this Act referred to as the rules of this Act with respect to infected places).

Offences as to infected places. 1867, s. 22.

42. If any animal, hide, skin, hair, wool, horn, hoof, offal, carcase, meat, dung, hay, straw, litter, or other thing is moved in contravention of the rules of this Act with respect to infected places, every person moving the same, or causing the same to be moved, shall be deemed guilty of an offence against this Act.

Exception for railways. 1867, s. 23.

43. The rules of this Act with respect to infected places shall not restrict the moving of any animal or thing by railway through an infected place, such animal or thing not being stopped within the infected place.

Power to Council to make rules as to infected places. 1867, ss. 21, 24.

44. The Privy Council may from time to time by order make rules with respect to infected places not being inconsistent with the rules set forth in the fifth schedule to this Act; and with respect to the metropolis, the Privy Council may also from time to time, if they think it expedient, vary the rules set forth in that schedule.

Duties of local authorities, &c. 1867, s. 25.

45. Every local authority and the police of every county, borough, town, and place shall, within their respective districts, enforce and execute the provisions of this Act; and of any order of the local authority or Privy Council thereunder relative to infected places, and do or cause to be done all things from time to time necessary or expedient for securing, as far as may be, the effectual isolation of infected places in respect of the movement of animals and things.

Authority of constable. 1867, s. 26.

46. Any constable may proceed as follows:

(1.) He may apprehend any person found committing an offence against the rules of this Act with respect to infected places, and he shall take any person so apprehended, as soon as conveniently may be, before a justice of the peace to be examined and dealt with according to law; and a person so apprehended shall not be detained in custody by any constable without the order of a justice longer than is necessary for bringing him before a justice, or than twenty-four hours at longest:

(2.) He may require that any animal or thing moved out of an infected place in contravention of those rules be forthwith taken back within the limits of that place, and may enforce and execute such requisition.

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Discontinuance of declaration of infected places. 1867, s. 27.

47. The local authority by whom an infected place is declared may, at any time after the expiration of twenty-eight days from the disappearance of cattle plague or sheep-pox (as the case may be) in that place, by order declare the place to be free from cattle plague or sheep-pox (as the case may be).

The Privy Council may at any time by order declare any place to be free from cattle plague or sheep-pox.

Thereupon, as from the time specified in this behalf in the order of the local authority or Privy Council, the place shall cease to be an infected place as regards cattle plague or sheep-pox (as the case may be).

Report to Council. 1867, s. 28.

48. The clerk of a local authority declaring a place to be an infected place, or declaring a place to be free from cattle plague or sheep-pox, shall forthwith report by post to the Privy Council the fact of such declaration having been made.

Effect of orders of Council. 1867, s. 20.

49. An order of the Privy Council relative to an infected place shall supersede any order of a local authority inconsistent with it.

Restriction on movement, &c. near infected places. 1867, s. 29.

50. Where, under this Act, an inspector makes a declaration which constitutes a place an infected place, he may also, if the circumstances of the case appear to him so to require, deliver a notice under his hand of such declaration to the occupiers of all lands and buildings adjoining thereto, any part whereof respectively lies within one mile of the boundaries of the infected place in any direction, and thereupon the rules of this Act with respect to infected places shall, until the determination and declaration of the local authority relative thereto in this Act provided for, apply and have effect to and in respect of those lands and buildings as if the same were actually within the limits of the infected place.

Pleuro-pneumonia.

Provisional declaration as to pleuro-pneumonia by inspector.

51. Where an inspector finds pleuro-pneumonia to exist within his district, he shall forthwith make a declaration thereof under his hand, and shall deliver a notice under his hand of such declaration to the occupier of the field, stable, cow-shed, or other premises where the disease is found; and thereupon the rules set forth in the sixth schedule to this Act (in this Act called the pleuro-pneumonia rules of this Act), shall have effect in relation to such field, stable, cow-shed, or other premises until the determination and declaration of the local authority relative thereto in this Act provided for.

Determination and declaration by

52. Where an inspector makes a declaration of the existence of pleuro-pneumonia, he shall with all practicable speed send a

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copy thereof to the Privy Council, and deliver the declaration to the local authority, who shall inquire into the correctness thereof; and if it appears to them that pleuro-pneumonia existed as declared by the inspector, they shall so determine and declare, and thereupon the pleuro-pneumonia rules of this Act shall continue to apply to the field, stable, cow-shed, or other premises to which the declaration relates; but if in any such case it appears to the local authority that pleuro-pneumonia did not exist as declared by the inspector, or that a fresh case of pleuro-pneumonia has not occurred for *ten days* in such field, stable, cow-shed, or other premises, then the local authority shall so determine and declare, and the pleuro-pneumonia rules of this Act shall cease to operate in relation thereto.

local authority as to pleuro-pneumonia.

Miscellaneous.

53. The forms given in the seventh schedule to this Act, or forms to the like effect, may be used by an inspector for the purposes of this part of this Act, and when used shall be deemed sufficient.

Forms in schedule. 1867, s. 53.

54. If any person exposes for sale in a market or fair or other public place where animals are commonly exposed for sale, or sends or causes to be carried on a railway or on a canal, river, or other inland navigation or on a coasting vessel, or carries, leads, or drives or causes to be carried, led, or driven on a highway or thoroughfare, any animal (including a horse) affected with a contagious or infectious disease, he shall be deemed guilty of an offence against this Act, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of the same being so affected, and that he could not with reasonable diligence have obtained such knowledge.

Exposure for sale of diseased animals.

Where any animal so affected is exposed or otherwise dealt with in contravention of this section, an inspector of the local authority or any officer of the local authority authorized to act in execution of this Act may seize the same, and cause it, together with any litter, pen, truck, horsebox, or other thing (not being a vessel) likely to have been infected thereby, to be destroyed.

1848 (II.) s. 1. 1853, s. 1. 1867, s. 49.

In case of a conviction for an offence under this section no compensation shall be payable by the local authority in respect of such destruction.

55. If any person places or keeps on any common or uninclosed land or in any field or other place insufficiently fenced, or on the side of a highway, any animal (including a horse) affected with a contagious or infectious disease, he shall be deemed guilty of an offence against this Act, unless he shows to the satisfaction of the justices

Turning out of diseased animals on uninclosed lands, &c. 1848 (II.) s. 2. 1853, s. 1.

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before whom he is charged that he did not know of the same being so affected, and that he could not with reasonable diligence have obtained such knowledge.

Trespass on land. 1866 (II.) s. 11.

56. Where a person having cattle in his possession or keeping within the district of a local authority wherein cattle plague exists affixes at the entrance to a building or inclosed place in or on which such cattle are kept a notice forbidding persons to enter into or on that building or place without his permission, then, if any person not having a right of entry or way into, on, or over that building or place, enters into, on, or over the same or any part thereof, in contravention of the notice, he shall for every such offence be liable to a penalty not exceeding five pounds.

Burial of diseased animals. 1866 (I.) s. 13.

57. Every local authority shall cause every animal that has died of cattle plague or sheep-pox, or has been slaughtered in consequence of being affected with cattle plague or sheep-pox, within their district, to be buried as soon as possible in its skin in some proper place, and to be covered with a sufficient quantity of quicklime or other disinfectant, and with not less than six feet of earth.

Purification of sheds, &c. of diseased animals. 1866 (I.) s. 14.

58. A local authority shall cause the yard, shed, stable, field, or other premises in which any animal affected with cattle plague has been kept while so affected, or has died or been slaughtered, to be thoroughly cleansed and disinfected, and all hay, straw, litter, dung, or other articles that have been in contact with or used about any such animal to be burnt or otherwise destroyed.

No fresh animal shall be admitted into any yard, shed, stable, field, or other premises in which any animal affected with cattle plague has been kept while so affected, or has died or been slaughtered, until the expiration of thirty days after the cleansing and disinfecting of such premises in pursuance of this Act.

A local authority shall direct the disinfecting of the clothes of and the use of due precautions against the spreading of contagion by inspectors and others in contact with animals affected with cattle plague.

Steamboats, railway companies, &c. to disinfect carriages, boats, &c. 1867, s. 48.

59. Every steamboat railway and other company and every person carrying animals for hire to or in Great Britain shall thoroughly cleanse and disinfect, in such manner as the Privy Council from time to time by order direct, all steamers, vessels, boats, pens, carriages, trucks, horse-boxes, and vehicles used by such company or person for the carrying of animals.

If any company or person on any occasion fails to comply with the requisitions of any such order, such company or person shall on every such occasion be deemed guilty of an offence against this Act.

An inspector of a local authority, or any officer of a local authority authorized to execute this Act, may at all times enter on board any steamer, vessel, or boat in respect whereof he has reasonable grounds for supposing that any company or person has failed to comply with the requisitions of any such order, and on premises where he has reasonable grounds for supposing that any pen, carriage, truck, horse-box, or vehicle in respect whereof any company or person has on any occasion so failed is to be found, and if any company or person refuses admission to an inspector or other officer acting under this section, such company or person shall be deemed guilty of an offence against this Act.

Regulations for disinfecting. 1867, s. 50.

60. The Privy Council may from time to time by order give directions respecting modes of disinfecting, and anything disinfected in accordance with the provisions of such order, or in accordance with any process of disinfection approved by the Privy Council, shall be deemed disinfected within this Act, but not otherwise.

Water and food on railways.

61. If a railway company make provision to the satisfaction of the Privy Council for the supply of water and food to animals carried by the company, then the company may make in respect of that supply such reasonable charges as the Privy Council approve, in addition to such charges as they are for the time being authorized to make in respect of the carriage of animals; and the amount of such charges accrued due in respect of any animal shall be a debt from the consignor and from the consignee thereof to the company, and shall be recoverable by the company from either of them by proceedings in any court of competent jurisdiction, and the company shall have a lien for the amount thereof on the animal in respect of which the same accrued due, and on any other animal at any time consigned on the railway of the company by the same person.

Part V.—Slaughter in Cattle Plague; Compensation.

Slaughter in cattle plague. 1866, (I.) s. 12.

62. Every local authority shall cause all animals affected with cattle plague within their district to be slaughtered.

Slaughter of cattle herded with diseased animals. 1866, (I.) s. 15.

63. A local authority may, if they think fit, cause to be slaughtered any animal that has been in the same shed or stable, or in the same herd or flock, or in contact with any animal affected with cattle plague within their district.

Slaughter to ascertain disease. 1867, s. 15.

64. Where an animal is affected with disease suspected to be cattle plague, the inspector of the local authority may cause the animal to be slaughtered in order to ascertain the nature of the disease.

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Reservation for experimental treatment. 1867, s. 15.

65. The Privy Council may, notwithstanding anything in this Act, reserve for experimental treatment any animal ordered to be slaughtered under this Act.

Compensation on slaughter. 1866, (I.) s. 12. 1867, s. 15.

66. Where an animal affected with cattle plague, or affected with disease suspected to be cattle plague, is slaughtered, in pursuance of this Act, the local authority shall, by way of compensation for the animal, pay to the owner thereof such sum, not exceeding twenty pounds and not exceeding one half of the value of the animal immediately before it was affected with cattle plague, as to the local authority seems fit.

Compensation for slaughter of cattle herded with diseased animals. 1866, (I.) s. 15.

67. Where a local authority causes an animal to be slaughtered on account of it having been in the same shed or stable, or in the same herd or flock, or in contact with an animal affected with cattle plague, the owner of the animal so slaughtered may either dispose of the carcase on his own account, with a licence from some officer appointed in that behalf by the local authority, or may require the local authority to dispose of the same, in which case the local authority shall pay to the owner thereof, by way of compensation, such sum, not exceeding twenty-five pounds, as may equal three fourths of the value of the animal slaughtered.

Power to ascertain value of slaughtered animals. 1866, (I.) s. 16.

68. A local authority may require the value of any animal slaughtered under this Act to be ascertained by officers of the local authority or by arbitration, and generally may impose conditions as to evidence of the slaughter and value of the animals slaughtered.

Restrictions on compensation. 1866, (I.) s. 17. 1867, s. 32.

69. Compensation shall not in any case be paid in respect of an animal found affected with cattle plague in a market or on a highway.

A local authority may, if they think fit, withhold compensation in respect of any animal slaughtered, where the owner or person having the charge thereof has been guilty, in relation to such animal, of any act in contravention of this Act, or of any order, regulation, or licence of the Privy Council or of a local authority, or has, in relation to such animal, failed to comply with the provisions of this Act, or of any such order, regulation, or licence in respect of the giving of notice of disease or in any other respect.

Amount of insurance to be recovered. 1866, (I.) s. 20.

70. Where an animal has been slaughtered in pursuance of this Act, the owner thereof shall not be entitled to recover in respect of the insurance thereof any sum which, together with the payment which he receives for the same under this Act, would exceed the sum which he would have been entitled to receive in respect of the insurance.

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Part VI.—Orders of Council and Local Authorities.

Power for Council to make orders. 1848, (II.) s. 4. 1866, (II.) s. 4.

71. The Privy Council may from time to time make such orders as they think expedient for all or any of the following purposes:

For prohibiting or regulating the movement of animals, and the removal of dead animals or parts thereof, and of hay, straw, litter, dung, and other things likely to spread contagious or infectious diseases among animals:

For requiring the cleansing and disinfecting of yards, sheds, stables, fields, and other premises:

For regulating the disposal of animals dying while affected with a contagious or infectious disease:

For requiring notice of the appearance of any such disease among animals:

For prohibiting or regulating the holding of markets, fairs, exhibitions, or sales of animals:

And generally any orders whatsoever which they think it expedient to make for the better execution of this Act, or for the purpose of in any manner preventing the spreading of contagious or infectious disease among animals (whether any such orders are of the same kind as the kinds enumerated in this section or not), and may in any such order direct or authorize the slaughtering of animals that are affected with any contagious or infectious disease, or that have been in contact with animals so affected.

Every such order shall have the like force and effect as if it had been enacted by this Act.

Privy Council inspectors. 1866 (I.) s. 9.

72. A person for the time being appointed by the Privy Council an inspector for the purposes of this Act shall have throughout Great Britain all such powers, authorities, and privileges as an inspector of a local authority has within or in relation to his district, and a direction of the Privy Council shall in the case of an inspector appointed by them be deemed equivalent to a direction of a local authority in the case of an inspector appointed by them.

Provisions for towns, &c. 1867, s. 30.

73. The Privy Council may from time to time, by order, declare that such of the provisions of this Act, and of any order of the Privy Council under it, as relate to the metropolis, or any of those provisions, shall also extend and apply to any town, city, parish, or place specified in the order, and the same shall extend to such town, city, parish, or place accordingly; and the Privy Council may at any time revoke or from time to time vary any such order.

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Regulation, &c. of landing of hay, &c. 1848 (I.) s. 2.

74. The Privy Council may from time to time by order make such regulations as they think expedient for prohibiting or regulating the landing of any hay, straw, fodder, or other article brought from any place out of the United Kingdom, whereby it appears to the Privy Council infection or contagion may be conveyed to animals, or for causing the same to be destroyed if landed.

Directions of Council and local authority. 1866, (II.) s. 4.

75. The Privy Council may require a local authority to carry into effect any order of the Privy Council under this Act, and may authorize a local authority to make any regulations for the purpose of preventing the spreading of contagious or infectious diseases among animals, subject to such conditions as the Privy Council impose.

Expenses of execution of orders. 1867, s. 36.

76. The expenses incurred by a local authority in executing any order of the Privy Council under this Act shall be defrayed as such order directs, and subject to or in the absence of any such direction shall be deemed expenses incurred by the local authority in pursuance of this Act.

Publication, orders, &c. 1848 (II.) s. 5. 1866 (II.) s. 7.

77. Every order of the Privy Council under this Act shall be published in the London Gazette, save that where an order of the Privy Council affects only a particular port, town, or place, or part thereof, specified in the order, or declares a place to be an infected place, or to be free from cattle plague or from sheep-pox, or is in the nature of a licence under an order of Council, or of a revocation of such a licence, then the insertion in the London Gazette of a notice of the issuing thereof shall be for all purposes sufficient publication thereof.

Any order of the Privy Council under this Act shall be published, by and at the expense of any local authority to whom the same is sent by the Privy Council for publication, in some newspaper circulating in the district of the local authority, or in such other manner as the Privy Council direct.

Any order or regulation made by a local authority shall be published by them at their own expense in such manner as the Privy Council direct.

Instrument may be in print, &c. 1867, s. 52.

78. Any order, licence, regulation, or other instrument made under this Act, or under any order of the Privy Council thereunder, may be in writing or print, or partly in writing and partly in print.

Stamp duty and fees not to be paid. 1866, (I.) s. 9. 1866, (II.) s. 9.

79. No stamp duty shall be payable on, and no fee or other charge shall be demanded or made for, any appointment, certificate, declaration, or licence under this Act, or any order or regulation made thereunder.

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80. An order or regulation made or issued by a local authority under this Act, or under any order of the Privy Council, may be proved as follows :— Evidence of orders. 1866 (II.) s. 8.

By the production of a copy of a newspaper containing a copy of such order or regulation; or

By the production of a printed copy of such order or regulation, purporting to be certified to be a true copy by the clerk of the peace where the authority are justices in general or quarter sessions assembled, or by the town clerk or other officer performing the duties of a town clerk in the case of an authority having a town clerk or other officer as aforesaid, or by such other officer as the Privy Council prescribe :

And any such order or regulation shall, until the contrary is proved, be deemed to have been duly made and issued at the time at which it bears date.

81. Penalties and forfeitures shall be recoverable and applicable under an order of the Privy Council, or an order or regulation of a local authority, as penalties and forfeitures under this Act are recoverable and applicable. Recovery of penalties.

82. Notwithstanding anything in this Act, all orders and regulations of the Privy Council, or of any local authority, in force at the passing of this Act, shall remain in force as if this Act had not been passed, but the same may be revoked or from time to time altered by the authority by whom the same were made. Saving for existing orders.

Part VII.—Lands.

83. A local authority may purchase or take on lease or at a rent land for the purpose of burying therein animals dying of or slaughtered on account of any contagious or infectious disease, or for the purpose of providing wharves, lairs, sheds, markets, houses, and places for the landing, reception, sale, and slaughter of foreign animals, or for any other purpose of this Act, and may sell, exchange, or dispose of lands acquired by them under this Act, but not required to be retained for the purposes thereof. Acquisition of land by local authority. 1866 (I.) s. 26.

84. Land purchased or taken on lease or at a rent under this Act by a local authority, not being a body corporate, shall be assured or demised to the local authority and their successors, in trust for the purposes of this Act, and shall be accepted, taken, and held by them as a body corporate. Conveyance, &c. of lands.

85. The regulations contained in section seventy-five of The Local Government Act, 1858, shall be observed with respect to Purchase under pro-

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visional order.

21 & 22 Vict. c. 98. s. 75.

the purchase of land by a local authority for the purposes of this Act, and shall apply and have effect as if the local authority were a local board acting under the Local Government Act, and the purposes of this Act were purposes of that Act, save that the advertisements and notices requisite under that section may be published and served in any two consecutive months instead of only in the months therein specified; and the powers conferred by this section may be exercised by a local authority with respect to land either within or without their district.

Part VIII.—Expenses of Local Authorities.

General expenses of local authority. 1866 (I.) s. 18.

86. Expenses incurred by a local authority in pursuance of this Act, except in respect of compensation for animals slaughtered, shall be defrayed out of the local rate.

Expenses for compensation. 1867, s. 33.

87. The expenditure of a local authority in pursuance of this Act in compensation for animals slaughtered shall be defrayed out of the local rate, or out of a separate rate to be levied in all respects as the local rate, and included under the term local rate.

Any person who is not the owner of the premises in respect of which he is rated under this section to the local rate may deduct from the growing rent due to the owner of such premises one half of the rate payable by him for the purposes of this section, and every owner shall allow such deduction accordingly.

The owner for the purposes of this section shall be the person for the time being entitled to receive the rackrent of the premises in respect of which the rate is made on his own account, or who would be entitled to receive the same if such premises were let at a rackrent, including under the term "rackrent" any rent which is not less than two thirds of the net annual value of the premises out of which the rent issues.

Every local authority shall have power, notwithstanding any limit in any Act of Parliament, to levy a local rate to the amount required for the purposes of this Act, but every rate or increase of rate levied under this section shall in all precepts for the levy thereof be described as a separate rate or separate item of rate, and when collected from the individual ratepayers shall be collected as a separate rate or specified as a separate item of rate.

Expenses to be specified

88. Every precept or warrant issued by a local authority for the purpose of obtaining payment of a local rate shall specify the

proportion (if any) of that rate which is required for the payment of expenses incurred by them in pursuance of this Act. A.D. 1869.

Every order of a board of guardians for contribution of moneys out of which any such expenses are payable shall state the amount in the pound of contribution required for such expenses. in precepts and orders. 1866 (III.) s. 5.

The overseers on the receipt given to any ratepayer for poor rate shall specify the amount (if any) collected in respect of such expenses.

89. All precepts, orders for contribution, and forms of poor rate shall, where necessary, be varied in such manner as may be required for carrying into effect this Act. Variation of forms of precepts and orders. Ibid. s. 6.

90. The treasurer of a local authority may, if directed by them, advance out of any moneys for the time being in his hands any sums required for payment of expenses incurred by them in pursuance of this Act. Advance of moneys by treasurer of local authority. Ibid. s. 7.

91. Where the local rate is a county rate or borough rate, or any other such rate as is mentioned in the second schedule to this Act, all the provisions of the statutes applicable to the making, levying, and collecting of a county rate, borough rate, or other rate shall apply, notwithstanding that the whole of such rate, or any part thereof, is applicable to the payment of expenses incurred by a local authority in pursuance of this Act. Saving of statutes applicable to rates leviable for expenses. Ibid. s. 8.

92. An error in the statement of the amount of expenses in any precept, warrant, contribution, order, or receipt issued or given under this Act shall not invalidate such precept, warrant, contribution, order, or receipt; but any person aggrieved by the error may appeal to the justices in petty sessions, and the justices may rectify the error, and award to the appellant compensation for any loss he may have sustained thereby, the amount of such compensation to be deducted by the appellant from any local rate or contribution to local rate thereafter levied on him. Error in statement not to vitiate precept, &c. Ibid. s. 9.

Borrowing.

93. Where the rate levied or required for the purposes of this Act exceeds or would exceed sixpence in the pound, a local authority may, for the purposes of defraying any costs, charges, and expenses under this Act, borrow at interest on the credit of the local rate any sums of money necessary for defraying such costs, charges, and expenses; and for the purpose of securing the repayment of any sums of money so borrowed, together with such interest as aforesaid, the local authority may mortgage the local rate for any period not exceeding seven years. Mortgage of rates in certain cases. 1866 (I.) s. 22.

Where the rate levied or required for the purposes of this Act exceeds or would exceed ninepence in the pound, the Commissioners

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of Her Majesty's Treasury may, on application from the local authority, extend the term to any term not exceeding fourteen years, and the local authority may mortgage the rate accordingly.

Provided that where the local authority borrow for any purpose of this Act on any security other than the local rate (whether together with the local rate, if any, or separately therefrom) the limitations in this section contained respecting the amount of rate and the term of years shall not operate.

The provisions of The Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, shall be incorporated with this section, the local authority being deemed to be the commissioners, and any mortgagee or assignee may enforce payment of his principal and interest by appointment of a receiver.

The Public Works Loan Commissioners may, with the approval of the Commissioners of Her Majesty's Treasury, advance to a local authority, on the security of the local rate, without any further security, any sums of money to be applied for the purposes of this Act, and to be repaid, with interest, within any period as aforesaid.

Further power where expenses exceed one shilling in pound. 1866 (III.) s. 4.

94. Where the estimated amount of the sum required to be levied for payment of expenses incurred by a local authority in pursuance of this Act (including expenditure incurred in the payment of money borrowed or of interest thereon) exceeds the sum that would be raised by the levying of a rate of one shilling in the pound on the rateable value of the property assessed to the local rate, the local authority may borrow from the Public Works Loan Commissioners, and the Public Works Loan Commissioners may lend to them, such sums as may be required, subject to the following conditions:

1. Every such loan shall be made with the sanction of the Commissioners of Her Majesty's Treasury:
2. Interest shall be at the rate of three and a quarter per centum per annum:
3. Repayment of the loan shall be made by such number of equal annual instalments, not exceeding thirty, as the Commissioners of Her Majesty's Treasury direct:
4. The Commissioners of Her Majesty's Treasury may, if they think fit, authorize the postponement, for a period not exceeding two years, of any payment of principal or interest becoming due within the first three years:
5. Repayment of the loan and interest shall be secured by a mortgage of the local rate, and it shall not be incumbent on the Public Works Loan Commissioners to require any other Security:

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6. The local authority shall have power to levy and shall levy rates requisite for the purpose of repaying the loan with interest:

7. The sanction of the Commissioners of Her Majesty's Treasury to the loan shall be conclusive evidence that it is authorized by this Act; and no objection shall be made by any rate-payer to the validity of any mortgage for the loan, or to the application of the proceeds of the local rate to the payment of the principal or interest of the loan:

8. The Commissioners of Her Majesty's Treasury may, by agreement with the local authority borrowing, commute into an equivalent annuity terminable at the time fixed for the liquidation of the annual instalments aforesaid, the payments secured by the mortgage or any portion of such payments.

Rate in aid.

Half-yearly accounts of compensation. 1867, s. 37.

95. Each local authority shall cause an account of their expenditure in compensation for animals slaughtered to be made up to Michaelmas and Lady Day in each year, or to such other half-yearly days as the Poor Law Board from time to time direct.

Application to Poor Law Board by local authority for audit. Ibid. s. 38.

96. Where from such half-yearly account of a local authority it appears that their expenditure in compensation in any half year exceeds the rate of ninepence in the pound per annum on the annual rateable value of the property in the district, the local authority may apply to the Poor Law Board for an audit of their accounts for that half year, and the Poor Law Board shall direct an audit accordingly.

Regulations respecting audit. Ibid. s. 39.

97. With respect to such audit the regulations set forth in the eighth schedule to this Act shall have effect.

The auditor shall, as nearly as may be, have the like powers, and be under the like obligation, to allow and disallow items in the account as the auditor in the case of an audit under the authority of the Poor Law Board of the account of an overseer; and there may be an appeal by any person aggrieved by the decision of the auditor in like manner, as nearly as may be, as in the case of such last-mentioned audit.

Power for Poor Law Board to make order of contribution. Ibid. s. 40.

98. If on any such audit it appears to the Poor Law Board from the certificate of the auditor that the expenditure of the local authority in compensation within the half year of account has exceeded the rate of ninepence in the pound per annum on the annual rateable value of the property in the district of the local authority, the Poor Law Board shall make a general order directed to the several local authorities whose districts adjoin to the district of the local authority on whose behalf the order is made, and to

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the several local authorities whose districts are locally situate (wholly or partly) within the district of the local authority on whose behalf the order is made or within such adjoining districts, and shall thereby require those several local authorities to contribute a sum of money to meet such excess of expenditure; but so that a local authority shall not be required to contribute any sum of money beyond an amount sufficient, together with any local or separate rate raised in the district, to bring the charge for the year up to ninepence in the pound on the annual rateable value.

Basis for contribution. Ibid. s. 41.

99. The sums to be so contributed by local authorities shall be assessed on them by the Poor Law Board in proportion to the annual rateable value of the property in their respective districts, to be determined according to the valuation lists, or where there are none, on such other basis as the Poor Law Board from time to time direct.

Contribution to be a debt. Ibid. s. 42.

100. The sum to be so contributed by a local authority shall be a debt due from them to the local authority on whose behalf the order is made, and the order of the Poor Law Board shall be for all purposes conclusive evidence of the existence and amount of such debt.

Raising of money for contribution. Ibid. s. 43.

101. The money to be so contributed by a local authority shall be deemed expenditure in compensation for animals slaughtered, and shall be raised accordingly by the local rate or a separate rate.

Payment of money for contribution. Ibid. s. 44.

102. The amount to be so contributed by a local authority shall, when raised, be paid to the treasurer or other proper officer of the local authority on whose behalf the order of the Poor Law Board is made.

Provision against disputing of orders of Poor Law Board, &c. Ibid. s. 45.

103. An order of the Poor Law Board under this Act shall not be liable to be removed into a court of law by certiorari or otherwise, nor shall an order of a local authority, or a rate, made to carry into effect the provisions of this Act relative to contribution, be liable to question in a court of law on the ground of its having been made wholly or partly in furtherance of any such order of the Poor Law Board.

PART IX.—OFFENCES AND LEGAL PROCEEDINGS.

Penalty for disobedience to Act or order. 1866 (I.) s. 27. 1867, s. 55.

104. If any person acts in contravention of or is guilty of any offence against this Act, or any order made by the Privy Council or a local authority in pursuance of this Act, he shall for every such offence (except as otherwise provided in this Act or any such order) be liable to a penalty not exceeding *twenty* pounds.

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Where any such offence is committed with respect to more than four animals a penalty not exceeding *five* pounds for each animal may be imposed instead of the penalty of twenty pounds.

Where any such offence is committed in relation to offal, dung, hay, straw, litter, or other thing, a further penalty not exceeding *ten* pounds may be imposed in respect of every half ton in weight of such offal or other thing after the first half ton.

Penalties on use of expired licences, &c. 1867, s. 54. 1866, (III). s. 10.

105. If any person does any of the following things he shall be deemed guilty of an offence against this Act:

(1.) If he does anything for which a licence is requisite under this Act, or any order of the Privy Council thereunder, without having obtained a licence:

(2.) If where such a licence is requisite, having obtained a licence in that behalf, he does the thing licensed after the licence has expired:

(3.) If he uses or offers or attempts to use as such a licence an instrument not being a complete licence, or an instrument untruly purporting or appearing to be a licence, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such incompleteness or untruth, and that he could not with reasonable diligence have obtained such knowledge:

(4.) If, with intent to evade any provision of this Act or of any order of the Privy Council thereunder, he fabricates or alters, or offers or utters, knowing the same to be fabricated or altered, any licence, declaration, certificate, or instrument made or issued or purporting to be made or issued under or for any purpose of this Act or any such order:

(5.) If, for the purpose of obtaining any licence, certificate, or instrument under or for the purposes of any such provision, he makes a declaration false in any material particular, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

(6.) If he obtains or endeavours to obtain any such licence, certificate, or instrument by means of any false pretence, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

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(7.) If he grants or issues any such licence, certificate, or instrument, being false in any material particular, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

And in any such case he shall be liable, on conviction, in the discretion of the justices, to be imprisoned for any term not exceeding three months, with or without hard labour, in lieu of the pecuniary penalty to which he is liable under this Act.

Punishment for obstructing inspectors, &c. 1848 (II.) s. 7. 1866 (I.) s. 10.

106. If any person obstructs or impedes an inspector or other officer acting in execution of this Act or of any order of the Privy Council thereunder, he, and every person aiding and assisting him therein, shall be guilty of an offence against this Act, and the inspector or other officer, or any person whom he calls to his assistance, may seize the offender and detain him until he can be conveniently taken before a justice, to be dealt with according to law.

Application of penalties. 1866 (II.) s. 5.

107. Notwithstanding anything in any Act relating to the metropolitan police, or to municipal corporations, or in any other Act, one half of every penalty or forfeiture recovered under this Act shall be paid to the person who sues or proceeds for the same, and the other half shall be applied in manner directed by any general or other Act relating thereto.

Appearance of companies, &c. 1866 (I.) s. 30.

108. In proceedings before justices under this Act, any railway company or other body corporate may appear by any member of their board of directors or council, or by any officer authorized in writing under the hand of any director or member of the council of the company or body.

Appeal. 1866 (I.) s. 31.

109. If any party feels aggrieved by the dismissal of his complaint by justices, or by any determination or adjudication of justices with respect to any penalty or forfeiture under this Act, he may appeal therefrom, subject to the conditions and regulations following:

1. The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days and not more than four months after the decision of the justices:
2. The appellant shall, within three days after the cause of appeal has arisen, give notice to the clerk of the petty sessional division for which the justices act whose decision is appealed from of his intention to appeal, and of the grounds thereof:

3. The appellant shall immediately after such notice enter into a recognizance, before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court: A.D. 1869.

4. The court may adjourn the appeal, and may make such order thereon as they think just:

But nothing in this section respecting appeals shall affect any enactment relative to appeals in cases of summary convictions or adjudications in the city of London or the metropolitan police district.

110. For the purposes of proceedings under this Act, or any order of the Privy Council or order or regulation of a local authority thereunder, every offence against this Act or any such order or regulation shall be deemed to have been committed, and every cause of complaint under this Act or any such order or regulation shall be deemed to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the person charged or complained against happens to be. Jurisdiction for trial of offences, &c. 1867, s. 56.

Protection of persons in execution of Act.

111. An action or proceeding shall not lie against any person acting or intending to act under the authority or in the execution or in pursuance of this Act for any alleged irregularity or trespass or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding, and the name and residence of the intending plaintiff or prosecutor, and of his attorney or agent in the matter,) is given by the intending plaintiff or prosecutor to the intended defendant *one month* at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within *four months* next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within *four months* next after the doing of such damage has ceased; and any such action shall be laid and tried in the county or place where the cause of action arose, and not elsewhere. Actions against persons executing Act not to be brought without notice, &c. Ibid. s. 57.

112. In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting or intending to act under the authority or in the execution or in pursuance of this Act, and may give all special matter in evidence. Plea in action. Ibid. s. 58.

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Evidence in action. 1867, s. 59.

113. On the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action not stated in his notice.

Tender of amends, &c. Ibid. s. 60.

114. The plaintiff in any such action shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made the defendant may, by leave of the court in which the action is brought, at any time pay into the court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on the payment of money into court in an ordinary action.

Costs of defendant. Ibid. s. 61.

115. If in any such action the plaintiff does not succeed in obtaining judgment, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review; and though a verdict is given for the plaintiff in the action, he shall not have costs against the defendant unless the judge before whom the trial is had certifies his approval of the action and verdict.

Costs, &c. of defence to actions, &c. under direction of local authority. Ibid. s. 62.

116. Where any such action or proceeding is defended under the direction or with the approval of the local authority, the costs, charges, and expenses incurred in and about the same by or on behalf of the defendant and payable by him, and any damages or other money recovered against or payable by him in or in consequence of such action or proceeding, shall be deemed expenses incurred by the local authority in pursuance of this Act, and shall be defrayed accordingly.

PART X.—SCOTLAND.

Application of part to Scotland.

117. The provisions of this part of this Act shall extend to Scotland only, and shall have effect in substitution for the provisions of the preceding parts of this Act, when so expressed, and otherwise shall have effect in addition to the provisions thereof.

Local authority, &c. 1866, (I.) s. 4.

118. For the purposes of this Act the respective districts, authorities, rate, and officers described in that behalf in the ninth schedule to this Act shall be the district, the local authority, the local rate, and the clerk of the local authority.

Appointment of local authority in counties.

119. The commissioners of supply in every county shall meet, and nominate not fewer than four or more than fifteen of their number to act on the county board for the purposes of this Act, and shall

intimate to the lord lieutenant of the county and the convener of the county the number and names of the persons so appointed. A.D. 1869. 1866, (I.) s. 5.

The lord lieutenant shall nominate an equal number of persons, being tenants of agricultural subjects valued in the valuation roll in force for the time at one hundred pounds a year or upwards, within such county, to act on the county board, and shall intimate the names of the persons so nominated to the convener of the county. 1867, s. 6.

Vacancies from time to time happening by death, resignation, or otherwise among the members of the local authority shall be filled up by the authority and in the manner by and in which the members vacating office were respectively nominated.

The persons nominated as in this section provided, and the lord lieutenant of the county, the convener of the county, and the sheriff of the county (or in his absence such one of his substitutes within the county as he directs by writing under his hand), for the time being, shall constitute the local authority.

As far as not otherwise provided by this Act, such local authority shall have all the powers conferred on the local authority by this Act, and shall have power to elect a chairman, specify a quorum, and make all regulations necessary for carrying the purposes of this Act into effect.

The chairman of the local authority, and in default of him the convener of the county, and in default of him any three members of the local authority, may at any time call a meeting of the local authority, to be held at such time and place as he or they may fix, and the local authority may adjourn as they from time to time think fit.

Mode of levying and recovering assessments.

120. The local authority in a county shall from time to time give notice to the commissioners of supply of the sums necessary to be provided under the provisions of this Act by means of the local rate; and the amount so intimated shall be assessed and collected by the commissioners of supply according to the real rent of lands and heritages as appearing on the valuation roll in force for the year, who shall pay over the same to the local authority. 1866 (I.) s. 21. 1867, s. 35.

The local authority in a burgh shall in like manner assess and collect the amount required to be raised by local rate within such burgh.

All such assessments shall be payable either by the tenant, who shall be entitled to deduct one half thereof from the rent payable by him to the proprietor, or from the proprietor (and that, notwithstanding anything in this Act, either with or without relief against the tenant for one half of the assessment), according as it

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is declared in the resolutions of the local authority imposing the assessment.

All the provisions in regard to the recovery of assessments in the Act of the session of the twentieth and twenty-first years of Her Majesty (chapter seventy-two), "to render more effectual the "police in counties and burghs in Scotland," are herely incorporated in this Act as far as the same are not inconsistent with the provisions of this Act.

Certificate of copy for evidence. 1866 (II.) s. 8.

121. In the case of a county, a printed copy of an order or regulation of the local authority, purporting to be certified to be a true copy by the clerk of supply, shall be received in proof.

Jurisdiction under 27 & 28 Vict. c. 53. 1866 (II.) s. 6.

122. The terms "justice" and "justices" shall include any magistrate having jurisdiction under The Summary Procedure Act, 1864.

Local authority may apply to procurator fiscal. 1866 (I.) s. 28.

123. In the event of any person refusing or delaying to comply with the order of a local authority, the local authority may give information thereof to the procurator fiscal of the county or burgh, who may apply to the sheriff for a warrant to carry such order into effect, and such warrant may be executed by the officers of court in the usual way.

Sheriff to have concurrent jurisdiction. 1866 (I.) s. 29.

124. All judicial powers given to justices and quarter sessions, or to magistrates in boroughs, by this Act, may also be exercised by the sheriff of the county or the sheriff substitute.

Notice of appeal. 1866 (I.) s. 31.

125. Notice of appeal and of the grounds thereof shall be given to the clerk of the peace of the county.

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The FIRST SCHEDULE.

Acts repealed.

38 Geo. 3. c. 65.—An Act for preventing the depasturing of forests, commons, and open fields with sheep or lambs infected with the scab or mange in that part of Great Britain called England.

11 & 12 Vict. c. 105.—An Act to prohibit the importation of sheep, cattle, or other animals, for the purpose of preventing the introduction of contagious or infectious disorders.

11 & 12 Vict. c. 107.—An Act to prevent, until the first day of September one thousand eight hundred and fifty, and to the end of the then session of Parliament, the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

16 & 17 Vict. c. 62.—An Act to extend and continue an Act of the twelfth year of Her present Majesty, to prevent the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

29 & 30 Vict. c. 2.—The Cattle Diseases Prevention Act, 1866.

29 & 30 Vict. c. 15.—An Act to amend the Act of the eleventh and twelfth years of Her present Majesty, chapter one hundred and seven, to prevent the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

29 & 30 Vict. c. 110.—The Cattle Diseases Prevention Amendment Act, 1866.

30 & 31 Vict. c. 125.—The Contagious Diseases (Animals) Act, 1867.

The SECOND SCHEDULE.

1866 (I.) Schedule.

Local authorities, &c. in England.

District of local authority.	Description of local authority of district set opposite name.	Local rate.	Clerk of local authority.
Counties except the metropolis.	The justices in general or quarter sessions assembled.	The county rate, or rate in the nature of a county rate.	Clerk of the peace.
The metropolis (subject to the provisions of this Act respecting the city of London and the liberties thereof).	The metropolitan board of works.	Rate or fund applicable to the payment of the general expenses of the board.	The clerk of the metropolitan board of works.
Boroughs - -	The mayor, aldermen, and burgesses acting by the council.	The borough fund or borough rate.	Town clerk.
District of local board of Oxford.	The local board -	Rate leviable by the local board.	Clerk of the local board.

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THE THIRD SCHEDULE.

Regulations respecting Committees and Sub-Committees.

1866, (I.) s. 8. 1867, s. 5.

1. A committee formed by a local authority may consist wholly of members of the local authority, or partly thereof, and partly of such other persons being rated occupiers in the district and qualified in such other manner as the local authority determine.

2. A committee of a local authority and a sub-committee of an executive committee may elect a chairman of their meetings.

3. If no chairman is elected, or if the chairman elected is not present at the time appointed for the holding of a meeting, the members then present shall choose one of their number to be chairman of the meeting.

4. Such a committee or sub-committee may meet and adjourn as they think proper.

5. Every question at a meeting of such a committee or sub-committee shall be determined by a majority of votes of the members present and voting on the question, and in case of an equal division of votes the chairman shall have a second or casting vote.

THE FOURTH SCHEDULE.

Regulations that may be applied to landing, movement, and disposal of foreign animals.

1. These regulations are to have effect with respect to those foreign animals only to which they are from time to time applied by order of the Privy Council.

2. Those foreign animals are to be landed only at parts of ports defined by special orders of the Privy Council for the several ports as places where foreign animals may be landed.

3. They are to be landed in such manner, within such times, and subject to such supervision and control as the Commissioners of Customs from time to time direct.

4. The owner, consignee, or other person landing them is either before landing them or within twelve hours after landing them, at his own expense, to mark them as follows :—in case of cattle, by clipping the hair off the end of the tail, and in such further manner (if any) as the Privy Council from time to time prescribe, and in case of other animals in such manner as the Privy Council from time to time prescribe.

5. They are not to be moved from the place of landing or lairs adjacent thereto, approved by the Privy Council, except as follows :

(*a.*) After the expiration of twelve hours from the time of landing or such other period as the Privy Council from time to time prescribe.

(*b.*) On a certificate from the veterinary inspector appointed in this behalf by the Commissioners of Customs certifying that they are free from contagious or infectious disease. A.D. 1869.

6. They are not to be moved alive out of the part of the port of landing from time to time defined in that behalf by the Privy Council.

THE FIFTH SCHEDULE.

Rules respecting infected Places.

Part I.—Cattle Plague.

1. The rules of this part of this schedule are to have effect with respect to infected places as regards cattle plague. 1867, s. 21.

2. No animal is to be moved alive out of an infected place.

3. Any hide, skin, hair, wool, horn, hoof, or offal of any animal, or any part thereof, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed to issue licences in that behalf, certifying either that the thing moved has not formed part of an animal affected with cattle plague, or of an animal that has been in the same shed or stable, or in the same herd or flock, or in contact with an animal so affected, or that the thing moved has been disinfected.

4. The carcase of an animal, or a single portion of raw meat weighing more than twenty pounds, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed in that behalf, certifying that the carcase or meat moved is not the carcase or part of the carcase of an animal affected with cattle plague.

5. Any dung of animals, and any hay, straw, litter, or other thing commonly used for food of animals or otherwise for or about animals, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed in that behalf, certifying that the thing moved has not been in contact with or been used for or about any animal affected with cattle plague, or that it has been disinfected.

Part II.—Sheep Pox.

1. The rules of this part of this schedule are to have effect with respect to infected places as regards sheep pox.

2. No sheep is to be moved alive out of an infected place.

3. Any skin, wool, horn, or hoof of any sheep, or any part thereof, is not to be moved out of an infected place without a license signed by an officer appointed by the local authority to issue licences in that behalf certifying that the thing moved did not belong to any sheep forming part of a flock affected with sheep pox, or to any sheep that has been on a farm or place in which that disease existed.

3. Sheds and places used by sheep affected with sheep pox are forthwith after being so used to be cleansed and disinfected.

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THE SIXTH SCHEDULE.

Pleuro-Pneumonia Rules.

1. These rules are to have effect with respect to any field, stable, cow-shed, or other premises infected by pleuro-pneumonia.

2. Cattle affected with pleuro-pneumonia are not to be moved from such field, stable, cow-shed,or other premises, or from any land or building contiguous thereto in the same occupation, except for immediate slaughter, and according to regulations to be from time to time made by the local authority for insuring such slaughter.

3. Other cattle are not to be moved from such field, stable, cow-shed, or other premises, or from any lands or buildings contiguous thereto in the same occupation, except for immediate slaughter, without a licence signed by an officer of the local authority appointed to issue licences in that behalf certifying that the cattle moved are not affected with pleuro-pneumonia, and have not been in the same shed, or herd, or in contact with cattle so affected.

4. Sheds and places used by cattle affected with pleuro-pneumonia are forthwith after being so used to be cleansed and disinfected.

The SEVENTH SCHEDULE.

Forms for Use by Inspector.

1867, second schedule.

(1.)

Declaration of Disease.

The Contagious Diseases (Animals) Act, 1869.

I, *A.B.* of , the inspector appointed by , being the local authority for the [county] of , hereby declare that I have this day found cattle plague [*or* pleuro-pneumonia *or* sheep-pox] to exist in the following field, stable, cowshed, or other premises, (that is to say,) [*here describe the place where the disease is found*].

Dated this day of 18 .

(Signed) *A.B.*

(2.)

Notice of Declaration to Occupiers.

The Contagious Diseases (Animals) Act, 1869.

To *C.D.* of

I, *A.B.* of , the inspector appointed by , being the local authority for the county] of , hereby give you notice, as the occupier of the following field, stable, cowshed, or other premises, (that is to say,) [*here*

describe the place where the disease is found,] that I have made a declaration, A.D. 1869.
a copy whereof is indorsed on this notice [*copy of declaration as filled up and signed to be indorsed*], and that in consequence thereof * the field, stable, cowshed, or other premises aforesaid, with all lands and buildings contiguous thereto in your occupation, have become and are an infected place, and that the same will continue to be an infected place * until the determination and declaration relative thereto of the local authority, as provided for in section of the above-mentioned Act, [*or in case of pleuro-pneumonia omit the part between the asterisks, and insert* the pleuro-pneumonia rules of this Act will have effect in relation to the field, stable, cowshed, or other premises aforesaid].

Dated this day of 18 .

(Signed) *A.B.*

(3.)

Notice of Declaration to adjoining Occupiers.

The Contagious Diseases (Animals) Act, 1869.

To *E.F.* of

I, *A.B.* of , the inspector appointed by , being the local authority for the [county] of , hereby give you notice that I have made a declaration, a copy whereof is indorsed on this notice [*Copy of declaration as filled up and signed to be indorsed*], and that in consequence thereof the field, stable, cowshed, or other premises therein described, with all lands and buildings contiguous thereto in the same occupation, have become and are an infected place, and the same will continue to be an infected place until the determination and declaration relative thereto of the local authority, as provided for in section of the above-mentioned Act. And I hereby require you, as an occupier of lands and buildings adjoining to such infected place, part [*or* the whole] whereof lies within one mile of the boundaries of the infected place, to take notice that in consequence of the declaration aforesaid the rules of the said Act with respect to infected places will, until such determination and declaration of the local authority as aforesaid, apply and have effect to and in respect of the lands and buildings of which you are occupier as if the same were actually within the limits of the infected place.

Dated this day of 18 .

(Signed) *A.B.*

The EIGHTH SCHEDULE.

Regulations respecting Audit.

1. The auditor shall be appointed by the Poor Law Board.

2. The auditor shall receive such remuneration as the Poor Law Board direct and the same shall be paid by the local authority, and shall, with the expenses

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of or incident to the audit, be deemed part of the expenditure of the local authority in compensation.

3. The audit shall be held at a place approved by the Poor Law Board and at the time fixed by the auditor, being as soon as may be after the appplication for the audit.

4. The auditor shall, fourteen days at least before holding the audit, give notice of the time and place for the holding thereof, by advertisement in a newspaper circulating in the district, and by a written notice delivered to or served on the clerk of the local authority.

5. The clerk of the local authority shall attend the audit, and produce to the auditor all books, bills, vouchers, and documents relating to the account.

6. Any ratepayer in the district may be present at the audit, and may object to the account.

7. When the auditor has completed his audit, he shall sign the account, and shall also sign and deliver to the Poor Law Board and to the local authority a certificate of the amount allowed.

8. Subject to the foregoing provisions, the Poor Law Board may from time to time make such regulations respecting the audit as they think fit.

The NINTH SCHEDULE.

1866 (I.) Sched.

Local authorities, &c. in Scotland.

District of local authority.	Description of local authority of district set opposite name.	Local rate.	Clerk of local authority.
Counties, including any town or place which does not return or contribute to return a member to parliament.	The persons appointed as provided in part X. of this Act.	Rate appointed to be levied in part X. of this Act.	Clerk of supply.
Burghs which return or contribute to return a member to parliament.	The magistrates and town council.		Town clerk.

Contagious Diseases (Animals) (No. 2).

A

B I L L

To consolidate, amend, and make perpetual the Acts for preventing the introduction or spreading of Contagious or Infectious Diseases among Cattle and other animals in Great Britain.

(*Prepared and brought in by Mr. Dodson, Mr. William Edward Forster, and Mr. Secretary Bruce.*)

Ordered, by The House of Commons, *to be Printed,* 4 *March* 1869.

[Bill 38.]

Under 6 *oz.*

Contagious Diseases (Animals) (No. 2) Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

The numbers in the first column refer to the clauses of the Bill as now amended; those in the second column to the clauses of the Bill as introduced.
*Clauses and Schedules marked thus * are amended.*
Clauses and Schedule marked thus † are new.
Clause marked thus ‡ has been left out.

Clauses.			Provisions of former Acts. (a)
		PART I.—PRELIMINARY.	
1	1	Short title.	
2	2	Extent of Act.	
3	3	Division of Act into parts.	
4	4	* Repeal of Acts in schedule.	
5	5	Definition, &c. of Privy Council - -	1866 (II.) s. 3. 1867, s. 4.
6	6	Interpretation of terms as to animals, &c. -	1866 (I.) s. 3.
7	7	Definition of boroughs and other places -	1866 (I.) s. 3.
8	8	Effect of schedules.	
		PART II.—LOCAL AUTHORITIES.	
9	9	Local authorities, &c. in schedule - -	1866 (I.) s. 4.
10	10	* Local authority in city of London - -	1866 (I.) s. 4.
11	11	* Appointment of committees - - -	1866 (I.) s. 8. 1867, s. 7.
		Inspectors and Officers.	
12	12	Appointment of inspectors and other officers by the local authority.	1866 (I.) s. 9.
13	13	* Removal of inspectors - - - -	1867, s. 8.
14	14	Reports to Privy Council, &c. - -	1867, s. 31.
		PART III.—FOREIGN ANIMALS.	
15	15	Power to define ports - - -	1867, s. 46.
16	16	Power to prohibit landing - - -	1848 (I.) s. 1.
17	17	Power to apply regulations in schedule to landing in specified cases.	1867, s. 46.
18	18	Power to vary regulations - - -	1867, s. 46.

(a) The former Acts are enumerated in the first schedule to the bill.
The short references to them (except the first of them, which being obsolete is not referred to) in this table and in the margins of the clauses are as follows :—

1848 (I.)—11 & 12 Vict. c. 105.
1848 (II.)—11 & 12 Vict. c. 107.
1853.—16 & 17 Vict. c. 62.
1866 (I.)—29 & 30 Vict. c. 2.
1866 (II.)—29 & 30 Vict. c. 15.
1866 (III.)—29 & 30 Vict. c. 110.
1867.—30 & 31 Vict. c. 125.

Clauses.			Provisions of former Acts.
19	19	* Provision respecting animals within port, &c.	
20	20	Power to impose quarantine - -	1848 (I.) s. 2.
21	21	* Punishment for wrongful landing, &c. -	1848 (I.) s. 3.
22	22	Provision of wharves, lairs, &c. - - -	1867, s. 47.
23	23	Incorporation of Markets, &c. Clauses Act.	
24	24	* Charges for use of wharves, &c. - - -	1867, s. 47.
25	25	Power to give as security charges, estates, &c.	
26	26	Separate account and application of money received.	
27		† Special provisions respecting metropolis.	
28		† Provision on failure of mayor, &c. to provide market.	
29	27	* Continuance of defined part where market, &c. provided.	

PART IV.—DISCOVERY AND PREVENTION OF DISEASE.

30	28	Inspector to proceed on information - -	1867, s. 9.
31	29	Power of entry for inspector, &c. - -	1866 (I.) s. 10.
32	30	* Evidence of disease - - - - -	1866 (I.) s. 9.

Infected Places: Cattle Plague and Sheep-pox.

33	31	Provisional declaration of infected place by inspector.	1867, s. 11.
34	32	Determination and declaration of local authority.	1867, s. 12.
35	33	Declaration of infected place by local authority or Council.	1867, s. 13.
36	34	Extent of area on declaration by local authority.	1867, s. 14.
37	35	Extension of area into district of other authority.	1867, s. 16.
38	36	Extent of infected place under declaration by Council.	1867, s. 14.
39	37	Area of infected places in metropolis -	1867, s. 19.
40	38	Description of infected place - - -	1867, s. 17.
41	39	Notice of declaration - - - -	1867, s. 18.
42	40	Order evidence of disease - - -	1866 (II.) s. 8.
43	41	* Rules in schedule - - - - -	1867, s. 21.
44	42	Offences as to infected places - -	1867, s. 22.
45	43	Exception for railways - - - -	1867, s. 23.
46	44	* Power to Council to make rules as to infected places.	1867, ss. 21, 24.
47	45	Duties of local authorities, &c. - -	1867, s. 25.
48	46	Authority of constable - - - -	1867, s. 26.
49	47	Discontinuance of declaration of infected places.	1867, s. 27.
50	48	Report to Council - - - - -	1867, s. 28.

Clauses.			Provisions of former Acts.
51	49	Effect of orders of Council	1867, s. 20.
52	50	Restriction on movement, &c. near infected places.	1867, s. 29.
		Pleuro-pneumonia.	
53	51	* Provisional declaration as to pleuro-pneumonia by inspector.	
54	52	Determination and declaration by local authority as to pleuro-pneumonia.	
		Miscellaneous.	
55	53	* Forms in schedule	1867, s. 53.
56	54	* Exposure for sale, transport by railway, &c. of diseased animals.	1848 (II.) s. 1. 1853, s. 1. 1867, s. 49.
57	55	* Turning out of diseased animals on uninclosed lands, &c.	1848 (II.) s. 2. 1853, s. 1.
58	56	Trespass on land	1866 (II.) s. 11.
59	57	* Burial of diseased animals	1866 (I.) s. 13.
60	58	* Purification of sheds, &c. of diseased animals	1866 (I.) s. 14.
61	59	Steamboat and railway companies, &c. to disinfect carriages, boats, &c.	1867, s. 48.
62	60	Regulations for disinfecting	1867, s. 50.
63	61	* Water and food on railways.	
		PART V.—SLAUGHTER IN CATTLE PLAGUE; COMPENSATION.	
64	62	Slaughter in cattle plague	1866 (I.) s. 12.
65	63	Slaughter of cattle herded with diseased animals.	1866 (I.) s. 15.
66	64	Slaughter to ascertain disease	1867, s. 15.
67	66	* Compensation on slaughter	1866 (I.) s. 12. 1867, s. 15.
68	67	* Compensation for slaughter of cattle herded with diseased animals.	1866 (I.) s. 15.
69	68	Power to ascertain value of slaughtered animals.	1866 (I.) s. 16.
70	69	* Restrictions on compensation	1866 (I.) s. 17. 1867, 32.
71	70	Amount of insurance to be recovered	1866 (I.) s. 20.
72	65	* Reservation for experimental treatment	1867, s. 15.
		PART VI.—ORDERS OF COUNCIL AND LOCAL AUTHORITIES, &C.	
73	71	Power for Council to make orders	1848 (II.) s. 4. 1866 (II.) s. 4.
74	72	* Privy Council inspectors	1866 (I.) s. 9.
75	73	Provisions for towns, &c.	1867, s. 30.

Clauses.			Provisions of former Acts.
76	74	* Regulation, &c. of landing of hay, &c. -	1848 (I.) s. 2.
77	75	Directions of Council and local authority -	1866 (II.) s. 4.
78	76	Expenses of execution of orders - -	1867, s. 36.
79	77	* Publication of orders, &c. - - -	1848 (II.) s. 5. 1866 (II.) s. 7.
80	78	Instrument may be in print, &c. - -	1867, s. 52.
81	79	Stamp duty and fees not to be paid - -	1866 (I.) s. 9. 1866 (II.) s. 9.
82	80	Evidence of orders - - -	1866 (II.) s. 8.
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	82	‡ Saving for existing orders.	

PART VII.—LANDS.

84	83	Acquisition of land by local authority -	1866 (I.) s. 26.
85	84	Conveyance, &c. of lands.	
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91	88	Expenses to be specified in precepts and orders.	1866 (III.) s. 5.
92	89	Variation of forms of precepts and orders -	Ibid. s. 6.
93	90	Advance of moneys by treasurer of local authority.	Ibid. s. 7.
94	91	Saving of statutes applicable to rates leviable for expenses.	Ibid. s. 8.
95	92	Error in statement not to vitiate precept, &c.	Ibid. s. 9.

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96	93	Mortgages of rates in certain cases - -	1866 (I.) s. 22.
97	94	Further power where expenses exceed one shilling in pound.	1866 (III.) s. 4.

Rate in aid.

98	95	Half-yearly accounts of compensation -	1867, s. 37.
99	96	Application to Poor Law Board by local authority for audit.	Ibid. s. 38.
100	97	* Regulations respecting audit - -	Ibid. s. 39.
101	98	Power for Poor Law Board to make order of contribution.	Ibid. s. 40.

Clauses.			Provisions of former Acts.
102	99	Basis for contribution - - -	1867, s. 41.
103	100	Contribution to be a debt - - -	Ibid. s. 42.
104	101	Raising of money for contribution - -	Ibid. s. 43.
105	102	Payment of money for contribution -	Ibid. s. 44.
106	103	Provision against disputing of orders of Poor Law Board, &c.	Ibid. s. 45.

PART IX.—OFFENCES AND LEGAL PROCEEDINGS.

107	104	Penalty for disobedience to Act or order -	1866 (I.) s. 27. 1867, s. 55.
108	105	Penalties on use of expired licences, &c. -	1867, s. 54. 1866 (III.) s. 10.
109	106	Punishment for obstructing inspectors, &c. -	1848 (II.) s. 7. 1866 (I.) s. 10.
110	107	* Application of penalties - - -	1866 (II.) s. 5.
111	108	Appearance of companies, &c. - -	1866 (I.) s. 30.
112	109	Appeal - - - - -	1866 (I.) s. 31.
113	110	Jurisdiction for trial of offences, &c. -	1867, s. 56.

Protection of persons in execution of Act.

114	111	Actions against persons executing Act not to be brought without notice, &c.	Ibid. s. 57.
115	112	Plea in action - - - -	Ibid. s. 58.
116	113	Evidence in action - - - -	Ibid. s. 59.
117	114	Tender of amends, &c. - - -	Ibid. s. 60.
118	115	Costs of defendant - - - -	Ibid. s. 61.
119	116	Costs, &c. of defence to actions, &c. under direction of local authority.	Ibid. s. 62.

PART X.—SCOTLAND.

120	117	* Application of part to Scotland.	
121	118	* Local authority, &c. - - -	1866 (I.) s. 4.
122	119	Appointment of local authority in counties -	1866 (I.) s. 5. 1867, s. 6.
123	120	Mode of levying and recovering assessments.	1866 (I.) s. 21. 1867, s. 35.
124	121	Certificate of copy for evidence - -	1866 (II.) s. 8.
125	122	Jurisdiction under 27 & 28 Vict. c. 53. -	1866 (II.) s. 6.
126	123	Local authority may apply to procurator fiscal.	1866 (I.) s. 28.
127	124	Sheriff to have concurrent jurisdiction -	1866 (I.) s. 29.
128	125	Notice of appeal - - - -	1866 (I.) s. 31.

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SCHEDULES.

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The second schedule - - - | 1866 (I.) schedule.

Local authorities, &c. in England.

* The third schedule - - - - - | 1866 (I.) s. 8. 1867, s. 5.

Regulations respecting Committees and Sub-Committees.

* The fourth schedule:

Regulations that may be applied to landing, movement, and disposal of foreign animals.

† The fifth schedule:

Maximum tolls, dues, and payments in Metropolitan Market after opening of Foreign Cattle Market.

The sixth schedule - - - - - | 1867, s. 21.

Rules respecting infected places.

The seventh schedule:

Pleuro-Pneumonia Rules.

The eighth schedule - - - - - | 1867, second schedule.

Forms for Use by Inspector.

The ninth schedule:

Regulations respecting Audit.

The tenth schedule - - - - | 1866 (I.) schedule.

Local authorities, &c. in Scotland.

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Consolidate, amend, and make perpetual the Acts for preventing the introduction or spreading of Contagious or Infectious Diseases among Cattle and other animals in Great Britain. A.D. 1869.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Part I.—Preliminary.

1. This Act may be cited as The Contagious Diseases (Animals) Act, 1869. Short title.

2. This Act shall not extend to Ireland. Extent of Act.

3. This Act is divided into parts, as follows :— Division of Act into parts.

Part I.—Preliminary.
Part II.—Local authorities.
Part III.—Foreign animals.
Part IV.—Discovery and prevention of disease.
Part V.—Slaughter in cattle plague : compensation.
Part VI.—Orders of council and of local authorities.
Part VII.—Lands.
Part VIII.—Expenses of local authorities.
Part IX.—Offences and legal proceedings.
Part X.—Scotland.

4. The Acts described in the first schedule to this Act are hereby repealed, but this repeal shall not extend to Ireland, or affect the past operation of any of those Acts, or the validity or invalidity of anything done or suffered, or any order of Her Majesty in Council made, or any order or regulation of the Privy Council, or of a local authority made, or any licence granted, or any committee or sub-committee constituted, or any appointment made, or any right, title, obligation, or liability accrued thereunder, before the passing of Repeal of Acts in schedule.

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this Act; nor shall this repeal interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty or forfeiture incurred under, any of the Acts repealed by this Act, or any order or regulation made thereunder.

Definition, &c. of Privy Council. 1866 (II.) s. 3. 1867, s. 4.

5. In this Act the term "the Privy Council" means the lords and others of Her Majesty's Most Honourable Privy Council.

All or any powers by this Act conferred on the Privy Council may be exercised by those lords and others or any two or more of them.

Powers by this Act conferred on the Privy Council may, as regards the making of orders affecting only specified ports, towns, or places, or parts thereof, and as regards the issuing and revocation of licences under any Order of Council, be exercised by the Lord President of the Council or one of Her Majesty's Principal Secretaries of State.

Interpretation of terms as to animals, &c. 1866 (I.) s. 3.

6. In this Act—

The term "cattle" means bulls, cows, oxen, heifers, and calves:

The term "animal" means, except where it is otherwise expressed, cattle, sheep, goats, and swine:

The term "foreign," as applied to cattle or animals, means brought from any place out of the United Kingdom:

The term "cattle plague" means the rinderpest, or disease commonly called the cattle plague:

The term "contagious or infectious disease" includes cattle plague, pleuro-pneumonia, foot and mouth disease, sheep-pox, sheep-scab, and glanders, and any disease which the Privy Council from time to time by order declare to be a contagious or infectious disease for the purposes of this Act:

The term "person" includes a body corporate or unincorporate.

Definition of boroughs and other places. 1866 (I.) s. 3.

7. In this Act—

The term "borough" means a place which is for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth (chapter seventy-six), "to provide for the regulation of municipal corporations in "England and Wales," and which is not assessed to the county rate of any county by the justices of that county:

The term "county" does not include a county of a city or county of a town, but includes any riding, division, or parts of a county, having a separate commission of the peace:

The term "metropolis" includes all parishes and places in which the Metropolitan Board of Works have power to levy a main drainage rate.

For the purposes of this Act, the liberty of St. Albans, the liberty of the Isle of Ely, and the soke of Peterborough shall respectively be deemed separate counties, but all other liberties and franchises of counties shall be considered as forming part of the county by which they are surrounded, or if partly surrounded by two or more counties, then as forming part of that county with which they have the longest common boundary. A.D. 1869.

Every place that is not a borough, a county, or part of the metropolis as respectively defined in this Act, or is not separately mentioned in the second schedule to this Act, shall be deemed to form part of a county as defined in this Act to the county rate whereof it is assessed, or if it is not so assessed, then of the county within which it is situate.

8. The schedules to this Act shall be construed and have effect as part of this Act. Effect of schedules.

Part II.—Local Authorities.

9. For the purposes of this Act, the respective districts, authorities, rates or funds, and officers described in the second schedule to this Act, shall be the district, the local authority, the local rate, and the clerk of the local authority. Local authorities, &c. in schedule. 1866 (I.) s. 4.

10. Notwithstanding anything in this Act or the second schedule thereto, within the city of London and the liberties thereof the mayor aldermen and commons of the city of London shall, for all the purposes of this Act, except that of making a rate, be the local authority, and the town clerk shall be the clerk of the local authority, but for the purpose of making a rate for the purposes of this Act the Metropolitan Board of Works shall be the local authority. Local authority in city of London. 1866 (I.) s. 4.

11. With respect to committees of a local authority, the following provisions shall have effect :— Appointment of committees. 1866 (I.) s. 8. 1867, s. 7.

(1.) A local authority shall form a committee or committees, and may delegate to any such committee all or any powers conferred on the local authority by this Act, except the power to make a rate :

(2.) A local authority may from time to time revoke or alter any power given by them to a committee :

(3.) A local authority may appoint and designate any such committee as their executive committee, for the purposes of this Act :

(4.) Such an executive committee shall have all the powers of the local authority under this Act, except the power to

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make a rate, and may appoint a sub-committee or sub-committees, and delegate to them all or any powers of the executive committee, with or without conditions or restrictions, and from time to time revoke or alter any such delegation, and fix the quorum, and add to or diminish the number of the members, or otherwise alter the constitution of a sub-committee, and lay down rules for the guidance of a sub-committee, who shall act accordingly:

(5.) Proceedings of a committee or sub-committee shall not be invalidated by any vacancy in the committee or sub-committee, or, in case of a committee appointed by general or quarter sessions of a county, by the termination of the sessions at which they were appointed:

(6.) In case of the formation of two or more committees, they shall act according to rules laid down for their guidance by the local authority:

(7.) The regulations contained in the third schedule to this Act shall have effect with respect to committees and sub-committees.

Inspectors and Officers.

Appointment of inspectors and other officers by the local authority. 1866 (I.) s. 9. 1867, s. 8.

12. Every local authority shall from time to time appoint so many inspectors and other officers as appear to the local authority necessary for the execution of this Act, and shall assign them such duties and award them such salaries or allowances as the local authority think fit, and may at any time revoke any appointment so made, but so that every local authority shall at all times keep appointed at least one inspector.

Removal of inspectors. 1867, s. 8.

13. The Privy Council, if satisfied on inquiry that an inspector appointed by a local authority is incompetent, or has been guilty of misconduct or neglect in the discharge of his duty, may, if they think fit, direct his removal, and thereupon he shall cease to be an inspector for the purposes of this Act.

Reports to Privy Council, &c. 1867, s. 31.

14. Every local authority, and every inspector appointed by a local authority, shall make such reports to the Privy Council as the Privy Council from time to time require.

PART III.—FOREIGN ANIMALS.

Power to define ports. 1867, s. 46.

15. The Privy Council may from time to time by order define the limits of ports for the purposes of this part of this Act.

Power to prohibit landing.

16. The Privy Council may from time to time by order, in relation to foreign animals, or to any specified kind or class of

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foreign animals, or to foreign animals brought from any specified country or place, prohibit the landing thereof either generally, or in any specified port, or in any defined part thereof, or elsewhere than in some specified port or ports, or than in some defined part or parts thereof. 1848 (I.) s. 1.

This section shall extend to horses and other animals not within the definition of animals in this Act.

Power to apply regulations in schedule to landing in specified cases. 1867, s. 46.

17. The Privy Council may from time to time by order apply to the landing, either generally, or with specified exceptions, or in some specified port, or in some defined part thereof, of foreign animals, or of any specified kind or class of foreign animals, or of foreign animals brought from any specified country or place, and to the movement and disposal thereof when landed, the regulations contained in the fourth schedule to this Act.

Power to vary regulations. 1867, s. 46.

18. The Privy Council may from time to time by order, in relation to foreign animals, or to any specified kind or class of foreign animals, or to foreign animals brought from any specified country or place, add to or vary the regulations contained in the fourth schedule to this Act.

Provision respecting animals within port, &c.

19. Where the regulations contained in the fourth schedule to this Act (with or without addition or variation) are in operation in respect of a port or a defined part thereof, then all animals for the time being within that port or defined part shall, subject to any order of the Privy Council to the contrary, be deemed foreign animals, and those regulations shall apply thereto accordingly.

Power to impose quarantine. 1848 (I.) s. 2.

20. The Privy Council may from time to time by order make such regulations as they think expedient for subjecting to quarantine foreign animals, or any specified kind or class of foreign animals, or foreign animals brought from any specified country or place.

This section shall extend to horses and other animals not within the definition of animals in this Act.

Punishment for wrongful landing, &c. 1848 (I.) s. 3.

21. If any person lands or attempts to land any foreign animal (including any horse or other animal not within the definition of animals in this Act) in contravention of any order of the Privy Council, the animal shall be forfeited in like manner as goods the importation whereof is prohibited by the Acts relating to the Customs are liable to be forfeited; and the person so offending shall be liable to such penalties as are imposed on persons importing or attempting to import goods the importation whereof is prohibited by the Acts relating to the Customs, without prejudice to any proceeding against him under this Act or any such order, but so that no person be punished twice for the same offence.

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Provision of wharves, lairs, &c. 1867, s. 47.

22. A local authority may provide, erect, and fit up wharves, lairs, sheds, markets, houses, and places for the landing, reception, sale, and slaughter of foreign animals.

Incorporation of Markets, &c. Clauses Act.

23. There shall be incorporated with this part of this Act The Markets and Fairs Clauses Act, 1847; and for the purposes of the application and construction of that Act in conjunction with this part of this Act any place provided by a local authority under this part of this Act for the landing, reception, sale, or slaughter of foreign animals shall be deemed a market, and this part of this Act shall be deemed the special Act, and the prescribed limits shall be deemed to be the limits of the lands acquired for the purposes of this part of this Act; and byelaws shall be approved by the Privy Council, which approval shall be sufficient, without any other approval or any allowance thereof (notice of application for such approval being nevertheless given, and proposed byelaws being published before application for approval, in like manner as under that Act notice of application for allowance and publication before that application are required to be made).

Charges for use of wharves, &c. 1867, s. 47.

24. A local authority may charge for the use of any wharf, lair, shed, market, house, or place provided by them under this part of this Act such sums as they from time to time by byelaw appoint.

Power to give as security charges, estates, &c.

25. A local authority, on exercising for the purposes of this part of this Act, the borrowing powers vested in them under this Act, may, if they think fit, give as security for repayment of money borrowed with interest (either together with the local rate, if any, or separately therefrom) the charges which they are authorized to make under this part of this Act, and any estates, revenues, or funds belonging to them and not otherwise appropriated by law.

Separate account and application of money received.

26. All money received by a local authority from charges made by them under this part of this Act shall be carried to a separate account, and shall be applied in payment of interest on money borrowed by them for the purposes of this part of this Act, and in repayment of the principal thereof, and subject thereto towards discharge of expenses incurred by them in the execution of this Act.

CLAUSE A. Special provisions respecting metropolis.

27. With respect to the metropolis, notwithstanding anything in this Act or in the second schedule thereto, the following provisions shall have effect:

(1.) The mayor aldermen and commons of the city of London shall, for the purposes of this part of this Act, be exclusively the local authority in and for the metropolis:

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(2.) The mayor aldermen and commons, on exercising for the purposes of this part of this Act the borrowing powers vested in a local authority under this Act, may borrow on the credit of the property on the credit whereof they are authorized to borrow by The Metropolitan Market Act, 1865, and the money so borrowed may be secured in the manner and subject and according to the provisions in that Act authorized and contained:

(3.) All money received by the mayor aldermen and commons from charges made by them under this part of this Act shall (subject to the application thereof as in this part of this Act directed in payment of interest on and in repayment of principal of money borrowed for the purposes of this part of this Act) be applied in repayment of the principal of money borrowed by them under The Metropolitan Market Acts, 1857 and 1865, and subject thereto in discharge of expenses incurred by them in the execution of this part of this Act:

(4.) From and after the opening for public use of a market provided by the mayor aldermen and commons under this part of this Act to the satisfaction of the Privy Council (declared by order), the maximum tolls, dues, and payments that may be taken under The Metropolitan Market Act, 1857, in respect of the animals mentioned in the fifth schedule to this Act, shall be the sums in that schedule specified in lieu of those specified in schedule A. to that Act.

Clause B. Provision on failure of mayor, &c. to provide market.

28. Provided that if the mayor aldermen and commons of the city of London do not before the first day of January one thousand eight hundred and seventy-two provide and open for public use a market for the purposes of this part of this Act to the satisfaction of the Privy Council (declared by order), then on and after that day the following consequences shall ensue:

(1.) The provision of this part of this Act making the mayor aldermen and commons exclusively for the purposes of this part of this Act the local authority in and for the metropolis shall cease to operate:

(2.) The enactment in section fifteen of The Metropolitan Market Act, 1857, that no new market for the sale of cattle or horses shall be opened in the cities of London or Westminster, or the liberties thereof, or in the borough of South-

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wark, or at any place distant less than seven miles in a straight line from Saint Paul's Cathedral in the city of London, shall not prevent any local authority or person from establishing a market for the purposes of this part of this Act in or at any place named or defined in that section.

Continuance of defined part where market, &c. provided.

29. Where a local authority, with the approval of the Privy Council, have before or after the passing of this Act provided, erected, and fitted up within a part of a port defined by the Privy Council as a place where foreign animals may be landed any wharf, lair, shed, market, house, or place for the landing, reception, sale, or slaughter of foreign animals, it shall not be lawful for the Privy Council to revoke or alter the order containing the definition of the part or parts of that port at which foreign animals may be landed, so as to exclude therefrom any part of the site of such wharf, lair, shed, market, house, or place, except with the consent of the local authority.

Part IV.—Discovery and Prevention of Disease.

Inspector to proceed on information. 1867, s. 9.

30. An inspector of a local authority, on receiving information of the supposed existence of cattle plague, pleuro-pneumonia, or sheep-pox in any place within his district, shall proceed to that place with all practicable speed, and execute and discharge the powers and duties by law conferred and imposed on him as inspector.

Power of entry for inspector, &c. 1866 (I.) s. 10.

31. An inspector or other officer of a local authority authorized to act in the execution of this Act may at any time enter any field, stable, cow-shed, or other premises within his district, where he has reasonable grounds for supposing that any animal affected with cattle plague, pleuro-pneumonia, or sheep-pox is to be found, for the purpose of executing this Act, but shall, if required, state in writing the grounds on which he has so entered.

If any person refuses admission to such inspector or officer acting under this section, he shall be deemed guilty of an offence against this Act.

Evidence of disease. 1866 (I.) s. 9.

32. The certificate of an inspector of a local authority to the effect that an animal is affected with cattle plague, pleuro-pneumonia, or sheep-pox, shall for the purposes of this Act be conclusive evidence in all courts of justice and elsewhere of the matter certified.

Infected Places: Cattle Plague and Sheep-Pox. A.D. 1869.

Provisional declaration of infected place by inspector. 1867, s. 11.

33. Where an inspector finds cattle plague or sheep-pox to exist within his district, he shall forthwith make a declaration thereof under his hand, and shall deliver a notice under his hand of such declaration to the occupier of the field, stable, cowshed, or other premises where the disease is found, and thereupon the same, with all lands and buildings contiguous thereto in the same occupation, shall become and be an infected place, and the same shall continue to be an infected place until the determination and declaration of the local authority relative thereto in this Act provided for.

Determination and declaration of local authority. 1867, s. 12.

34. Where an inspector makes such a declaration of the existence of cattle plague or sheep-pox, he shall with all practicable speed send a copy thereof to the Privy Council, and deliver the declaration to the local authority, who shall inquire into the correctness thereof, and if it appears to them that cattle plague or sheep-pox existed as declared by the inspector, they shall so determine and declare, and shall prescribe the limits of the infected place; but if it appears to them that cattle plague or sheep-pox did not exist as declared by the inspector, and the same is certified to them in writing by one or more duly qualified veterinary surgeon or surgeons, they shall so determine and declare, and thereupon the place comprised in the inspector's declaration, or affected thereby, shall cease to be an infected place.

Declaration of infected place by local authority or Council. 1867, s. 13.

35. A local authority with respect to any place within their district, and the Privy Council with respect to any place in Great Britain, may from time to time by order declare any field, stable, cowshed, or other premises in which cattle plague or sheep-pox exists at the date of the order or has existed within seven days before that date, with or without a further area, to be from and after a time specified in the order an infected place.

Extent of area on declaration by local authority. 1867, s. 14.

36. The area of an infected place may in all cases of a declaration by a local authority include, with the field, stable, cowshed, or other premises in which cattle plague or sheep-pox has been found to exist, all lands and buildings lying contiguous thereto, being in the same occupation, and within the district of the local authority, and also (except in the metropolis) an area comprised within one mile from the boundaries of those lands in every direction, but no more.

Extension of area into district of other authority. 1867, s. 16.

37. A local authority may include in the area of an infected place any adjoining part of the district of another local authority, with the previous consent of that authority in writing signed by their clerk, but not otherwise.

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Extent of infected place under declaration by council. 1867, s. 14.

38. The area of an infected place may in all cases of a declaration by the Privy Council include, with the field, stable, cowshed, or other premises in which cattle plague or sheep-pox has been found to exist, such an area as to the Privy Council seems requisite.

Area of infected places in metropolis. 1867, s. 19.

39. With respect to the metropolis the Privy Council may from time to time by order extend the limits of an infected place beyond the boundaries of the field, stable, cowshed, farm, or premises where cattle plague is declared or found to exist.

Description of infected place.

40. The area of an infected place may in any case be described by reference to a map deposited at some specified place, or by reference to townships, parishes, farms, or otherwise.

Notice of declaration. 1867, s. 18.

41. An order of a local authority declaring a place to be an infected place shall be published by the local authority by notices posted in and near the infected place, and in such other manner (if any) as they think expedient.

An order of the Privy Council declaring a place to be an infected place shall be published in like manner by and at the expense of any local authority to whom the same is sent by the Privy Council for publication.

Any want of or defect or irregularity in publication shall not invalidate any order.

Order evidence of disease. 1866 (II.) s. 8.

42. An order of a local authority or of the Privy Council declaring a place to be an infected place shall be conclusive evidence in all courts of justice and elsewhere of the existence of disease and other matters on which the order proceeds.

Rules in schedule. 1867, s. 21.

43. The rules set forth in the sixth schedule to this Act shall have effect with respect to infected places (which rules are in this Act referred to as the rules of this Act with respect to infected places).

Offences as to infected places. 1867, s. 22.

44. If any animal, hide, skin, hair, wool, horn, hoof, offal, carcase, meat, dung, hay, straw, litter, or other thing is moved in contravention of the rules of this Act with respect to infected places, every person moving the same, or causing the same to be moved, shall be deemed guilty of an offence against this Act.

Exception for railways. 1867, s. 23.

45. The rules of this Act with respect to infected places shall not restrict the moving of any animal or thing by railway through an infected place, such animal or thing not being stopped within the infected place.

Power to Council to make rules as to infected places. 1867, ss. 21, 24.

46. The Privy Council may from time to time by order make rules with respect to infected places not being inconsistent with the rules set forth in the sixth schedule to this Act; and with respect to the metropolis, the Privy Council may also from time to time, if

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they think it expedient, vary the rules set forth in that schedule; and all rules and variations of rules so made shall be deemed rules of this Act with respect to infected places.

Duties of local authorities, &c. 1867, s. 25.

47. Every local authority and the police of every county, borough, town, and place shall, within their respective districts, enforce and execute the provisions of this Act and of any order of the local authority or Privy Council thereunder relative to infected places, and do or cause to be done all things from time to time necessary or expedient for securing, as far as may be, the effectual isolation of infected places in respect of the movement of animals and things.

Authority of constable. 1867, s. 26.

48. Any constable may proceed as follows:

(1.) He may apprehend any person found committing an offence against the rules of this Act with respect to infected places, and he shall take any person so apprehended, as soon as conveniently may be, before a justice of the peace to be examined and dealt with according to law; and a person so apprehended shall not be detained in custody by any constable without the order of a justice longer than is necessary for bringing him before a justice, or than twenty-four hours at longest:

(2.) He may require that any animal or thing moved out of an infected place in contravention of those rules be forthwith taken back within the limits of that place, and may enforce and execute such requisition.

Discontinuance of declaration of infected places. 1867, s. 27.

49. The local authority by whom an infected place is declared may, at any time after the expiration of twenty-eight days from the disappearance of cattle plague or sheep-pox (as the case may be) in that place, by order declare the place to be free from cattle plague or sheep-pox (as the case may be).

The Privy Council may at any time by order declare any place to be free from cattle plague or sheep-pox.

Thereupon, as from the time specified in this behalf in the order of the local authority or Privy Council, the place shall cease to be an infected place as regards cattle plague or sheep-pox (as the case may be).

Report to Council. 1867, s. 28.

50. The clerk of a local authority declaring a place to be an infected place, or declaring a place to be free from cattle plague or sheep-pox, shall forthwith report by post to the Privy Council the fact of such declaration having been made.

Effect of orders of Council. 1867, s. 20.

51. An order of the Privy Council relative to an infected place shall supersede any order of a local authority inconsistent with it.

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Restriction on movement, &c. near infected places. 1867, s. 29.

52. Where, under this Act, an inspector makes a declaration which constitutes a place an infected place, he may also, if the circumstances of the case appear to him so to require, deliver a notice under his hand of such declaration to the occupiers of all lands and buildings adjoining thereto, any part whereof respectively lies within one mile of the boundaries of the infected place in any direction, and thereupon the rules of this Act with respect to infected places shall, until the determination and declaration of the local authority relative thereto in this Act provided for, apply and have effect to and in respect of those lands and buildings as if the same were actually within the limits of the infected place.

Pleuro-pneumonia.

Provisional declaration as to pleuro-pneumonia by inspector.

53. Where an inspector finds pleuro-pneumonia to exist within his district, he shall forthwith make a declaration thereof under his hand, and shall deliver a notice under his hand of such declaration to the occupier of the field, stable, cow-shed, or other premises where the disease is found; and thereupon the rules set forth in the seventh schedule to this Act (in this Act called the pleuro-pneumonia rules of this Act) shall have effect in relation to such field, stable, cow-shed, or other premises until the determination and declaration of the local authority relative thereto in this Act provided for.

Determination and declaration by local authority as to pleuro-pneumonia.

54. Where an inspector makes a declaration of the existence of pleuro-pneumonia, he shall with all practicable speed send a copy thereof to the Privy Council, and deliver the declaration to the local authority, who shall inquire into the correctness thereof; and if it appears to them that pleuro-pneumonia existed as declared by the inspector, they shall so determine and declare, and thereupon the pleuro-pneumonia rules of this Act shall continue to apply to the field, stable, cow-shed, or other premises to which the declaration relates; but if in any such case it appears to the local authority that pleuro-pneumonia did not exist as declared by the inspector, or that a fresh case of pleuro-pneumonia has not occurred for ten days in such field, stable, cow-shed, or other premises, then the local authority shall so determine and declare, and the pleuro-pneumonia rules of this Act shall cease to operate in relation thereto.

Miscellaneous.

Forms in schedule. 1867, s. 53.

55. The forms given in the eighth schedule to this Act, or forms to the like effect, may be used by an inspector for the

purposes of this part of this Act, and when used shall be deemed sufficient. A.D. 1869.

Exposure for sale, transport by railway, &c. of diseased animals.

56. If any person exposes for sale in a market or fair or other public place where horses or animals are commonly exposed for sale, or sends or causes to be carried on a railway or on a canal, river, or other inland navigation or on a coasting vessel, or carries, leads, or drives or causes to be carried, led, or driven on a highway or thoroughfare, any horse or animal affected with a contagious or infectious disease, he shall be deemed guilty of an offence against this Act, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of the same being so affected, and that he could not with reasonable diligence have obtained such knowledge.

1848 (II.) s. 1. 1853, s. 1. 1867, s. 49.

Where any horse or animal so affected is exposed or otherwise dealt with in contravention of this section, an inspector of the local authority or any officer of the local authority authorized to act in execution of this Act may seize the same, and cause it, if affected with glanders, cattle plague, or sheep-pox, to be slaughtered, and if affected with any other contagious or infectious disease to be removed to some convenient and isolated place, and to be there kept for such time as they think expedient; and the local authority may recover the expenses of the execution by them of this section from the owner of the horse or animal, or from the consignor or consignee thereof, who may recover the same from the owner.

In case of a conviction for an offence under this section no compensation shall be payable by the local authority in respect of any animal slaughtered under this section.

Turning out of diseased animals on uninclosed lands, &c. 1848 (II.) s. 2. 1853, s. 1.

57. If any person places or keeps on any common or uninclosed land or in any field or other place insufficiently fenced, or on the side of a highway, any horse or animal affected with a contagious or infectious disease, he shall be deemed guilty of an offence against this Act, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of the same being so affected, and that he could not with reasonable diligence have obtained such knowledge.

Trespass on land. 1866 (II.) s. 11.

58. Where a person having cattle in his possession or keeping within the district of a local authority wherein cattle plague exists affixes at the entrance to a building or inclosed place in or on which such cattle are kept a notice forbidding persons to enter into or on that building or place without his permission, then, if any person not having a right of entry or way into, on, or over that building or place, enters into, on, or over the same or any part

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thereof, in contravention of the notice, he shall for every such offence be liable to a penalty not exceeding five pounds.

Burial of diseased animals. 1866 (I.) s. 13.

59. Every local authority shall cause every horse or animal that has died of glanders, cattle plague, or sheep-pox, or has been slaughtered in consequence of being affected with glanders, cattle plague, or sheep-pox, within their district, to be buried as soon as possible in its skin in some proper place, and to be covered with a sufficient quantity of quicklime or other disinfectant, and with not less than six feet of earth.

It shall not be lawful for any person, except with the licence of the Privy Council, to dig up or cause to be dug up the carcase or any part of the carcase of any horse or animal so buried.

Purification of sheds, &c. of diseased animals. 1866 (I.) s. 14.

60. A local authority shall cause the yard, shed, stable, field, or other premises in which any horse or animal affected with glanders or cattle plague or sheep-pox has been kept while so affected, or has died or been slaughtered, to be thoroughly cleansed and disinfected, and all hay, straw, litter, dung, or other article that has been in contact with or used about any such horse or animal to be burnt or otherwise destroyed.

No fresh horse or animal shall be admitted into any yard, shed, stable, field, or other premises in which any horse or animal affected with glanders or cattle plague or sheep-pox has been kept while so affected, or has died or been slaughtered, until the expiration of thirty days after the cleansing and disinfecting of such premises in pursuance of this Act.

Any such hay, straw, litter, dung, or other article shall not be removed from the premises in which any horse or animal affected with glanders or cattle plague has been, except for the purpose of being destroyed and with a licence of an inspector specifying the place at which it is to be destroyed, nor shall it be removed out of the district of the local authority without the consent in writing of the local authority into whose district it is moved. If any such thing is removed in contravention of this Act, the occupier of the premises from which it is removed and the person removing it shall each be deemed guilty of an offence against this Act.

A local authority shall direct the disinfecting of the clothes of and the use of due precautions against the spreading of contagion by inspectors and others in contact with animals affected with cattle plague.

Steamboat and railway companies

61. Every steamboat railway and other company and every person carrying animals for hire to or in Great Britain shall

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thoroughly cleanse and disinfect, in such manner as the Privy Council from time to time by order direct, all steamers, vessels, boats, pens, carriages, trucks, horse-boxes, and vehicles used by such company or person for the carrying of animals.

&c. to disinfect carriages, boats, &c.

If any company or person on any occasion fails to comply with the requisitions of any such order, such company or person shall on every such occasion be deemed guilty of an offence against this Act.

1867, s. 48.

An inspector of a local authority, or any officer of a local authority authorized to execute this Act, may at all times enter on board any steamer, vessel, or boat in respect whereof he has reasonable grounds for supposing that any company or person has failed to comply with the requisitions of any such order, and on premises where he has reasonable grounds for supposing that any pen, carriage, truck, horse-box, or vehicle in respect whereof any company or person has on any occasion so failed is to be found, and if any company or person refuses admission to an inspector or other officer acting under this section, such company or person shall be deemed guilty of an offence against this Act.

Regulations for disinfecting.

62. The Privy Council may from time to time by order give directions respecting modes of disinfecting, and anything disinfected in accordance with the provisions of such order, or in accordance with any process of disinfection approved by the Privy Council, shall be deemed disinfected within this Act, but not otherwise.

1867, s. 50.

Water and food on railways.

63. If a railway company make provision to the satisfaction of the Privy Council for the supply of water and food to animals carried by the company, then the company may make in respect of that supply such reasonable charges as the Privy Council by order approve, in addition to such charges as they are for the time being authorized to make in respect of the carriage of animals; and the amount of such additional charges accrued due in respect of any animal shall be a debt from the consignor and from the consignee thereof to the company, and shall be recoverable by the company from either of them by proceedings in any court of competent jurisdiction, and the company shall have a lien for the amount thereof on the animal in respect of which the same accrued due, and on any other animal at any time consigned on the railway of the company by the same person.

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PART V.—SLAUGHTER IN CATTLE PLAGUE; COMPENSATION.

Slaughter in cattle plague. 1866, (I.) s. 12.

64. Every local authority shall cause all animals affected with cattle plague within their district to be slaughtered.

Slaughter of cattle herded with diseased animals. 1866, (I.) s. 15.

65. A local authority may, if they think fit, cause to be slaughtered any animal that has been in the same shed or stable, or in the same herd or flock, or in contact with any animal affected with cattle plague within their district.

Slaughter to ascertain disease. 1867, s. 15.

66. Where an animal is affected with disease suspected to be cattle plague, the inspector of the local authority may cause the animal to be slaughtered in order to ascertain the nature of the disease.

Compensation on slaughter. 1866, (I.) s. 12. 1867, s. 15.

67. Where an animal affected with cattle plague, or affected with disease suspected to be cattle plague, is slaughtered, in pursuance of this Act, the local authority (except as otherwise provided in this Act) shall, by way of compensation for the animal, pay to the owner thereof such sum, not exceeding twenty pounds and not exceeding one half of the value of the animal immediately before it was affected with cattle plague, as to the local authority seems fit.

Compensation for slaughter of cattle herded with diseased animals. 1866, (I.) s. 15.

68. Where a local authority causes an animal to be slaughtered on account of it having been in the same shed or stable, or in the same herd or flock, or in contact with an animal affected with cattle plague, the owner of the animal so slaughtered may either dispose of the carcase on his own account, with a licence from some officer appointed in that behalf by the local authority, or may require the local authority to dispose of the same, in which latter case the local authority shall pay to the owner thereof, by way of compensation, such sum, not exceeding twenty-five pounds, as may equal three fourths of the value of the animal slaughtered.

Power to ascertain value of slaughtered animals. 1866, (I.) s. 16.

69. A local authority may require the value of any animal slaughtered under this Act to be ascertained by officers of the local authority or by arbitration, and generally may impose conditions as to evidence of the slaughter and value of the animals slaughtered.

Restrictions on compensation. 1866, (I.) s. 17. 1867, s. 32.

70. A local authority may, if they think fit, withhold compensation in respect of any animal slaughtered, where the owner or the person having the charge thereof has in their judgment been guilty, in relation to such animal, of any act in contravention of this Act, or of any order, regulation, or licence of the Privy Council or of a local authority, or has, in relation to such animal, failed to comply with the provisions of this Act, or of any such order, regulation, or licence in respect of the giving of notice of disease or in any other

respect, and may, if they think fit, withhold compensation in respect of a foreign animal slaughtered on account of it being affected with cattle plague, or with disease suspected to be cattle plague, if it appears to them that the animal was so affected at the time of the landing thereof.

Amount of insurance to be recovered. 1866, (I.) s. 20.

71. Where an animal has been slaughtered in pursuance of this Act, the owner thereof shall not be entitled to recover in respect of the insurance thereof any sum which, together with the payment which he receives for the same under this Act, would exceed the sum which he would have been entitled to receive in respect of the insurance.

Reservation for experimental treatment. 1867, s. 15.

72. The Privy Council may, notwithstanding anything in this Act, reserve for experimental treatment any animal ordered to be slaughtered under this Act, but compensation shall be payable in respect thereof as if this section had not been enacted.

Part VI.—Orders of Council and Local Authorities.

Power for Council to make orders. 1848, (II.) s. 4. 1866, (II.) s. 4.

73. The Privy Council may from time to time make such orders as they think expedient for all or any of the following purposes:

For prohibiting or regulating the movement of animals, and the removal of dead animals or parts thereof, and of hay, straw, litter, dung, and other things likely to spread contagious or infectious diseases among animals:

For requiring the cleansing and disinfecting of yards, sheds, stables, fields, and other premises:

For regulating the disposal of animals dying while affected with a contagious or infectious disease:

For requiring notice of the appearance of any such disease among animals:

For prohibiting or regulating the holding of markets, fairs, exhibitions, or sales of animals:

And generally any orders whatsoever which they think it expedient to make for the better execution of this Act, or for the purpose of in any manner preventing the spreading of contagious or infectious disease among animals (whether any such orders are of the same kind as the kinds enumerated in this section or not), and may in any such order direct or authorize the slaughtering of animals that are affected with any contagious or infectious disease, or that have been in contact with animals so affected.

Every such order shall have the like force and effect as if it had been enacted by this Act.

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Privy Council inspectors. 1866 (I.) s. 9.

74. A person for the time being appointed by the Privy Council an inspector for the purposes of this Act shall have for and throughout Great Britain all such powers, authorities, and privileges as an inspector of a local authority has within or in relation to his district, and a direction of the Privy Council shall in the case of an inspector appointed by them be deemed equivalent to a direction of a local authority in the case of an inspector appointed by them.

Provisions for towns, &c. 1867, s. 30.

75. The Privy Council may from time to time, by order, declare that such of the provisions of this Act, and of any order of the Privy Council under it, as relate to the metropolis, or any of those provisions, shall also extend and apply to any town, city, parish, or place specified in the order, and the same shall extend to such town, city, parish, or place accordingly; and the Privy Council may at any time revoke or from time to time vary any such order.

Regulation, &c. of landing of hay, &c. 1848 (I.) s. 2.

76. The Privy Council may from time to time by order make such regulations as they think expedient for prohibiting or regulating the landing of any hay, straw, fodder, or other article brought from any place out of the United Kingdom, whereby it appears to the Privy Council infection or contagion may be conveyed to animals, or for causing the same to be destroyed if landed.

If any person lands or attempts to land any hay, straw, fodder, or other article in contravention of any such order, the same shall be forfeited in like manner as goods the importation whereof is prohibited by the Acts relating to the Customs are liable to be forfeited, and the person so offending shall be liable to such penalties as are imposed on persons importing or attempting to import goods the importation whereof is prohibited by the Acts relating to the Customs, without prejudice to any proceeding against him under this Act or any such order, but so that no person be punished twice for the same offence.

Directions of Council and local authority. 1866, (II.) s. 4.

77. The Privy Council may require a local authority to carry into effect any order of the Privy Council under this Act, and may authorize a local authority to make any regulations for the purpose of preventing the spreading of contagious or infectious diseases among animals, subject to such conditions as the Privy Council impose.

Expenses of execution of orders. 1867, s. 36.

78. The expenses incurred by a local authority in executing any order of the Privy Council under this Act shall be defrayed as such order directs, and subject to or in the absence of any such direction shall be deemed expenses incurred by the local authority in pursuance of this Act.

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79. Every order of the Privy Council under this Act shall be published in the London Gazette, save that where an order of the Privy Council affects only a particular port, town, or place, or part thereof, specified in the order, or declares a place to be an infected place, or to be free from cattle plague or from sheep-pox, or is in the nature of a licence under an order of Council, or of a revocation of such a licence, then the insertion in the London Gazette of a notice of the issuing thereof shall be for all purposes sufficient publication thereof.

Publication of orders, &c. 1848 (II.) s. 5. 1866 (II.) s. 7.

Any order of the Privy Council under this Act shall be published, by and at the expense of any local authority to whom the same is sent by the Privy Council for publication, in some newspaper circulating in the district of the local authority, or in such other manner as the Privy Council direct.

Any order or regulation made by a local authority shall be published by them at their own expense in such manner as the Privy Council direct, and, subject to or in the absence of any such direction, in such manner as the local authority think sufficient and proper to ensure publicity.

80. Any order, licence, regulation, or other instrument made under this Act, or under any order of the Privy Council thereunder, may be in writing or print, or partly in writing and partly in print.

Instrument may be in print, &c. 1867, s. 52.

81. No stamp duty shall be payable on, and no fee or other charge shall be demanded or made for, any appointment, certificate, declaration, or licence under this Act, or any order or regulation made thereunder.

Stamp duty and fees not to be paid. 1866, (I.) s. 9. 1866, (II.) s. 9.

82. An order or regulation made or issued by a local authority under this Act, or under any order of the Privy Council, may be proved as follows :—

Evidence of orders. 1866 (II.) s. 8.

By the production of a copy of a newspaper containing a copy of such order or regulation; or

By the production of a printed copy of such order or regulation, purporting to be certified to be a true copy by the clerk of the peace where the authority are justices in general or quarter sessions assembled, or by the town clerk or other officer performing the duties of a town clerk in the case of an authority having a town clerk or other officer as aforesaid, or by such other officer as the Privy Council prescribe :

And any such order or regulation shall, until the contrary is proved, be deemed to have been duly made and issued at the time at which it bears date.

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Recovery of penalties.

83. Penalties and forfeitures shall be recoverable and applicable under an order of the Privy Council, or an order or regulation of a local authority, as penalties and forfeitures under this Act are recoverable and applicable.

PART VII.—LANDS.

Acquisition of land by local authority.
1866 (I.) s. 26.

84. A local authority may purchase or take on lease or at a rent land for the purpose of burying therein animals dying of or slaughtered on account of any contagious or infectious disease, or for the purpose of providing wharves, lairs, sheds, markets, houses, and places for the landing, reception, sale, and slaughter of foreign animals, or for any other purpose of this Act, and may sell, exchange, or dispose of lands acquired by them under this Act, but not required to be retained for the purposes thereof.

Conveyance, &c. of lands.

85. Land purchased or taken on lease or at a rent under this Act by a local authority, not being a body corporate, shall be assured or demised to the local authority and their successors, in trust for the purposes of this Act, and shall be accepted, taken, and held by them as a body corporate.

Purchase under provisional order.
21 & 22 Vict. c. 98. s. 75.

86. The regulations contained in section seventy-five of The Local Government Act, 1858, shall be observed with respect to the purchase of land by a local authority for the purposes of this Act, and shall apply and have effect as if the local authority were a local board acting under the Local Government Act, and the purposes of this Act were purposes of that Act, save that the advertisements and notices requisite under that section may be published and served in any two consecutive months instead of only in the months therein specified; and the powers conferred by this section may be exercised by a local authority with respect to land either within or without their district.

PART VIII.—EXPENSES OF LOCAL AUTHORITIES.

General expenses of local authority.
1866 (I.) s. 18.

87. Expenses incurred by a local authority in pursuance of this Act, except in respect of compensation for animals slaughtered, shall be defrayed out of the local rate.

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Expenses for compensation. 1867, s. 33.

88. The expenditure of a local authority in pursuance of this Act in compensation for animals slaughtered shall be defrayed out of the local rate, or out of a separate rate to be levied in all respects as the local rate, and included under the term local rate.

Any person who is not the owner of the premises in respect of which he is rated under this section to the local rate may deduct from the growing rent due to the owner of such premises one half of the rate payable by him for the purposes of this section, and every owner shall allow such deduction accordingly.

The owner for the purposes of this section shall be the person for the time being entitled to receive the rackrent of the premises in respect of which the rate is made on his own account, or who would be entitled to receive the same if such premises were let at a rackrent, including under the term rackrent any rent which is not less than two thirds of the net annual value of the premises out of which the rent issues.

Every local authority shall have power, notwithstanding any limit in any Act of Parliament, to levy a local rate to the amount required for the purposes of this Act, but every rate or increase of rate levied under this section shall in all precepts for the levy thereof be described as a separate rate or separate item of rate, and when collected from the individual ratepayers shall be collected as a separate rate or specified as a separate item of rate.

Clause C. Remission of rate in certain cases.

89. Where before the twentieth day of February one thousand eight hundred and sixty-six any person suffered so great a loss of cattle by cattle plague as to entitle him, after the passing of this Act, in the opinion of the local authority, to a remission in whole or in part of the amount due from him in respect of the local rate when levied to defray expenditure in compensation for animals slaughtered, such remission may be granted by the local authority.

Clause D. Application of balance unappropriated.

90. Where at the passing of this Act a local authority have in their hands an unappropriated balance of a local rate levied under any Act repealed by this Act, they may, if they think fit, carry such balance or any part thereof to the credit of the ordinary account of the local rate, to be applied for any of the purposes for which the local rate when levied under any Act other than an Act repealed by this Act is applicable.

Expenses to be specified in precepts and orders. 1866 (III.) s. 5.

91. Every precept or warrant issued by a local authority for the purpose of obtaining payment of a local rate shall specify the proportion (if any) of that rate which is required for the payment of expenses incurred by them in pursuance of this Act.

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Every order of a board of guardians for contribution of moneys out of which any such expenses are payable shall state the amount in the pound of contribution required for such expenses.

The overseers on the receipt given to any ratepayer for poor rate shall specify the amount (if any) collected in respect of such expenses.

Variation of forms of precepts and orders. Ibid. s. 6.

92. All precepts, orders for contribution, and forms of poor rate shall, where necessary, be varied in such manner as may be required for carrying into effect this Act.

Advance of moneys by treasurer of local authority. Ibid. s. 7.

93. The treasurer of a local authority may, if directed by them, advance out of any moneys for the time being in his hands any sums required for payment of expenses incurred by them in pursuance of this Act.

Saving of statutes applicable to rates leviable for expenses. Ibid. s. 8.

94. Where the local rate is a county rate or borough rate, or any other such rate as is mentioned in the second schedule to this Act, all the provisions of the statutes applicable to the making, levying, and collecting of a county rate, borough rate, or other rate shall apply, notwithstanding that the whole of such rate, or any part thereof, is applicable to the payment of expenses incurred by a local authority in pursuance of this Act.

Error in statement not to vitiate precept, &c. Ibid. s. 9.

95. An error in the statement of the amount of expenses in any precept, warrant, contribution, order, or receipt issued or given under this Act shall not invalidate such precept, warrant, contribution, order, or receipt; but any person aggrieved by the error may appeal to the justices in petty sessions, and the justices may rectify the error, and award to the appellant compensation for any loss he may have sustained thereby, the amount of such compensation to be deducted by the appellant from any local rate or contribution to local rate thereafter levied on him.

Borrowing.

Mortgage of rates in certain cases. 1866 (I.) s. 22.

96. Where the rate levied or required for the purposes of this Act exceeds or would exceed sixpence in the pound, a local authority may, for the purposes of defraying any costs, charges, and expenses under this Act, borrow at interest on the credit of the local rate any sums of money necessary for defraying such costs, charges, and expenses; and for the purpose of securing the repayment of any sums of money so borrowed, together with such interest as aforesaid, the local authority may mortgage the local rate for any period not exceeding seven years.

Where the rate levied or required for the purposes of this Act exceeds or would exceed ninepence in the pound, the Commissioners of Her Majesty's Treasury may, on application from the local autho-

rity, extend the term to any term not exceeding fourteen years, and the local authority may mortgage the rate accordingly.

Provided that where the local authority borrow for any purpose of this Act on any security other than the local rate (whether together with the local rate, if any, or separately therefrom) the limitations in this section contained respecting the amount of rate and the term of years shall not operate.

The provisions of The Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, shall be incorporated with this section, the local authority being deemed to be the commissioners, and any mortgagee or assignee may enforce payment of his principal and interest by appointment of a receiver.

The Public Works Loan Commissioners may, with the approval of the Commissioners of Her Majesty's Treasury, advance to a local authority, on the security of the local rate, without any further security, any sums of money to be applied for the purposes of this Act, and to be repaid, with interest, within any period as aforesaid.

Further power where expenses exceed one shilling in pound. 1866 (III.) s. 4.

97. Where the estimated amount of the sum required to be levied for payment of expenses incurred by a local authority in pursuance of this Act (including expenditure incurred in the payment of money borrowed or of interest thereon) exceeds the sum that would be raised by the levying of a rate of one shilling in the pound on the rateable value of the property assessed to the local rate, the local authority may borrow from the Public Works Loan Commissioners, and the Public Works Loan Commissioners may lend to them, such sums as may be required, subject to the following conditions:

1. Every such loan shall be made with the sanction of the Commissioners of Her Majesty's Treasury:
2. Interest shall be at the rate of three and a quarter per centum per annum:
3. Repayment of the loan shall be made by such number of equal annual instalments, not exceeding thirty, as the Commissioners of Her Majesty's Treasury direct:
4. The Commissioners of Her Majesty's Treasury may, if they think fit, authorize the postponement, for a period not exceeding two years, of any payment of principal or interest becoming due within the first three years:
5. Repayment of the loan and interest shall be secured by a mortgage of the local rate, and it shall not be incumbent on the Public Works Loan Commissioners to require any other security:

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6. The local authority shall have power to levy and shall levy rates requisite for the purpose of repaying the loan with interest:

7. The sanction of the Commissioners of Her Majesty's Treasury to the loan shall be conclusive evidence that it is authorized by this Act; and no objection shall be made by any ratepayer to the validity of any mortgage for the loan, or to the application of the proceeds of the local rate to the payment of the principal or interest of the loan:

8. The Commissioners of Her Majesty's Treasury may, by agreement with the local authority borrowing, commute into an equivalent annuity terminable at the time fixed for the liquidation of the annual instalments aforesaid, the payments secured by the mortgage or any portion of such payments.

Rate in aid.

Half-yearly accounts of compensation. 1867, s. 37.

98. Each local authority shall cause an account of their expenditure in compensation for animals slaughtered to be made up to Michaelmas and Lady Day in each year, or to such other half-yearly days as the Poor Law Board from time to time direct.

Application to Poor Law Board by local authority for audit. Ibid. s. 38.

99. Where from such half-yearly account of a local authority it appears that their expenditure in compensation in any half year exceeds the rate of ninepence in the pound per annum on the annual rateable value of the property in the district, the local authority may apply to the Poor Law Board for an audit of their accounts for that half year, and the Poor Law Board shall direct an audit accordingly.

Regulations respecting audit. Ibid. s. 39.

100. With respect to such audit the regulations set forth in the ninth schedule to this Act shall have effect.

The auditor shall, as nearly as may be, have the like powers, and be under the like obligation, to allow and disallow items in the account as the auditor in the case of an audit under the authority of the Poor Law Board of the account of an overseer; and there may be an appeal by any person aggrieved by the decision of the auditor in like manner, as nearly as may be, as in the case of such last-mentioned audit.

Power for Poor Law Board to make order of contribution. Ibid. s. 40.

101. If on any such audit it appears to the Poor Law Board from the certificate of the auditor that the expenditure of the local authority in compensation within the half year of account has exceeded the rate of ninepence in the pound per annum on the annual rateable value of the property in the district of the local authority, the Poor Law Board shall make a general order directed to the several local authorities whose districts adjoin to the district of the local authority on whose behalf the order is made, and to

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the several local authorities whose districts are locally situate (wholly or partly) within the district of the local authority on whose behalf the order is made or within such adjoining districts, and shall thereby require those several local authorities to contribute a sum of money to meet such excess of expenditure; but so that a local authority shall not be required to contribute any sum of money beyond an amount sufficient, together with any local or separate rate raised in the district, to bring the charge for the year up to ninepence in the pound on the annual rateable value.

Basis for contribution. Ibid. s. 41.

102. The sums to be so contributed by local authorities shall be assessed on them by the Poor Law Board in proportion to the annual rateable value of the property in their respective districts, to be determined according to the valuation lists, or where there are none, on such other basis as the Poor Law Board from time to time direct.

Contribution to be a debt. Ibid. s. 42.

103. The sum to be so contributed by a local authority shall be a debt due from them to the local authority on whose behalf the order is made, and the order of the Poor Law Board shall be for all purposes conclusive evidence of the existence and amount of such debt.

Raising of money for contribution. Ibid. s. 43.

104. The money to be so contributed by a local authority shall be deemed expenditure in compensation for animals slaughtered, and shall be raised accordingly by the local rate or a separate rate.

Payment of money for contribution. Ibid. s. 44.

105. The amount to be so contributed by a local authority shall, when raised, be paid to the treasurer or other proper officer of the local authority on whose behalf the order of the Poor Law Board is made.

Provision against disputing of orders of Poor Law Board, &c. Ibid. s. 45.

106. An order of the Poor Law Board under this Act shall not be liable to be removed into a court of law by certiorari or otherwise, nor shall an order of a local authority, or a rate, made to carry into effect the provisions of this Act relative to contribution, be liable to question in a court of law on the ground of its having been made wholly or partly in furtherance of any such order of the Poor Law Board.

Part IX.—Offences and Legal Proceedings.

Penalty for disobedience to Act or order. 1866 (I.) s. 27. 1867, s. 55.

107. If any person acts in contravention of or is guilty of any offence against this Act, or any order made by the Privy Council or a local authority in pursuance of this Act, he shall for every such offence (except as otherwise provided in this Act or any such order) be liable to a penalty not exceeding twenty pounds.

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Where any such offence is committed with respect to more than four animals a penalty not exceeding five pounds for each animal may be imposed instead of the penalty of twenty pounds.

Where any such offence is committed in relation to offal, dung, hay, straw, litter, or other thing, a further penalty not exceeding ten pounds may be imposed in respect of every half ton in weight of such offal or other thing after the first half ton.

Penalties on use of expired licences, &c. 1867, s. 54. 1866, (III.) s. 10.

108. If any person does any of the following things he shall be deemed guilty of an offence against this Act:

(1.) If he does anything for which a licence is requisite under this Act, or any order of the Privy Council thereunder, without having obtained a licence:

(2.) If where such a licence is requisite, having obtained a licence in that behalf, he does the thing licensed after the licence has expired:

(3.) If he uses or offers or attempts to use as such a licence an instrument not being a complete licence, or an instrument untruly purporting or appearing to be a licence, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such incompleteness or untruth, and that he could not with reasonable diligence have obtained such knowledge:

(4.) If, with intent to evade any provision of this Act or of any order of the Privy Council thereunder, he fabricates or alters, or offers or utters, knowing the same to be fabricated or altered, any licence, declaration, certificate, or instrument made or issued or purporting to be made or issued under or for any purpose of this Act or any such order:

(5.) If, for the purpose of obtaining any licence, certificate, or instrument under or for the purposes of any such provision, he makes a declaration false in any material particular, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

(6.) If he obtains or endeavours to obtain any such licence, certificate, or instrument by means of any false pretence, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

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(7.) If he grants or issues any such licence, certificate, or instrument, being false in any material particular, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

And in any such case he shall be liable, on conviction, in the discretion of the justices, to be imprisoned for any term not exceeding three months, with or without hard labour, in lieu of the pecuniary penalty to which he is liable under this Act.

Punishment for obstructing inspectors, &c. 1848 (II.) s. 7. 1866 (I.) s. 10.

109. If any person obstructs or impedes an inspector or other officer acting in execution of this Act or of any order of the Privy Council thereunder, he, and every person aiding and assisting him therein, shall be guilty of an offence against this Act, and the inspector or other officer, or any person whom he calls to his assistance, may seize the offender and detain him until he can be conveniently taken before a justice, to be dealt with according to law.

Application of penalties. 1866 (II.) s. 5.

110. Notwithstanding anything in any Act relating to the metropolitan police, or to municipal corporations, or in any other Act, one half of every penalty or forfeiture recovered under this Act shall be paid to the person who sues or proceeds for the same, and the other half shall be applied as if this section had not been enacted.

Appearance of companies, &c. 1866 (I.) s. 30.

111. In proceedings before justices under this Act, any railway company or other body corporate may appear by any member of their board of directors or council, or by any officer authorized in writing under the hand of any director or member of the council of the company or body.

Appeal. 1866 (I.) s. 31.

112. If any party feels aggrieved by the dismissal of his complaint by justices, or by any determination or adjudication of justices with respect to any penalty or forfeiture under this Act, he may appeal therefrom, subject to the conditions and regulations following:

1. The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days and not more than four months after the decision of the justices:
2. The appellant shall, within three days after the cause of appeal has arisen, give notice to the clerk of the petty sessional division for which the justices act whose decision is appealed from of his intention to appeal, and of the grounds thereof:

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3. The appellant shall immediately after such notice enter into a recognizance, before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court:

4. The court may adjourn the appeal, and may make such order thereon as they think just:

But nothing in this section respecting appeals shall affect any enactment relative to appeals in cases of summary convictions or adjudications in the city of London or the metropolitan police district.

Jurisdiction for trial of offences, &c. 1867, s. 56.

113. For the purposes of proceedings under this Act, or any order of the Privy Council or order or regulation of a local authority thereunder, every offence against this Act or any such order or regulation shall be deemed to have been committed, and every cause of complaint under this Act or any such order or regulation shall be deemed to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the person charged or complained against happens to be.

Protection of persons in execution of Act.

Actions against persons executing Act not to be brought without notice, &c. Ibid. s. 57.

114. An action or proceeding shall not lie against any person acting or intending to act under the authority or in the execution or in pursuance of this Act for any alleged irregularity or trespass or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding, and the name and residence of the intending plaintiff or prosecutor, and of his attorney or agent in the matter,) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within four months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within four months next after the doing of such damage has ceased; and any such action shall be laid and tried in the county or place where the cause of action arose, and not elsewhere.

Plea in action. Ibid. s. 58.

115. In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting or intending to act under the authority or in the execution or in pursuance of this Act, and may give all special matter in evidence.

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116. On the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action not stated in his notice. Evidence in action. 1867, s. 59.

117. The plaintiff in any such action shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made the defendant may, by leave of the court in which the action is brought, at any time pay into the court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on the payment of money into court in an ordinary action. Tender of amends, &c. Ibid. s. 60.

118. If in any such action the plaintiff does not succeed in obtaining judgment, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review; and though a verdict is given for the plaintiff in the action, he shall not have costs against the defendant unless the judge before whom the trial is had certifies his approval of the action and verdict. Costs of defendant. Ibid. s. 61.

119. Where any such action or proceeding is defended under the direction or with the approval of the local authority, the costs, charges, and expenses incurred in and about the same by or on behalf of the defendant and payable by him, and any damages or other money recovered against or payable by him in or in consequence of such action or proceeding, shall be deemed expenses incurred by the local authority in pursuance of this Act, and shall be defrayed accordingly. Costs, &c. of defence to actions, &c. under direction of local authority. Ibid. s. 62.

Part X.—Scotland.

120. The provisions of this part of this Act shall extend to Scotland only, and shall have effect in substitution for the provisions of the preceding parts of this Act, when so expressed or implied, and otherwise shall have effect in addition to the provisions thereof. Application of part to Scotland.

121. For the purposes of this Act the respective districts, authorities, rate, and officers described in that behalf in the tenth schedule to this Act shall be the district, the local authority, the local rate, and the clerk of the local authority. Local authority, &c. 1866, (I.) s. 4.

122. The commissioners of supply in every county shall meet, and nominate not fewer than four or more than fifteen of their number to act on the county board for the purposes of this Act, and shall Appointment of local authority in counties.

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1866, (I.) s. 5. 1867, s. 6.

intimate to the lord lieutenant of the county and the convener of the county the number and names of the persons so appointed.

The lord lieutenant shall nominate an equal number of persons, being tenants of agricultural subjects valued in the valuation roll in force for the time at one hundred pounds a year or upwards, within such county, to act on the county board, and shall intimate the names of the persons so nominated to the convener of the county.

Vacancies from time to time happening by death, resignation, or otherwise among the members of the local authority shall be filled up by the authority and in the manner by and in which the members vacating office were respectively nominated.

The persons nominated as in this section provided, and the lord lieutenant of the county, the convener of the county, and the sheriff of the county (or in his absence such one of his substitutes within the county as he directs by writing under his hand), for the time being, shall constitute the local authority.

As far as not otherwise provided by this Act, such local authority shall have all the powers conferred on the local authority by this Act, and shall have power to elect a chairman, specify a quorum, and make all regulations necessary for carrying the purposes of this Act into effect.

The chairman of the local authority, and in default of him the convener of the county, and in default of him any three members of the local authority, may at any time call a meeting of the local authority, to be held at such time and place as he or they may fix, and the local authority may adjourn as they from time to time think fit.

Mode of levying and recovering assessments.

1866 (I.) s. 21. 1867, s. 35.

123. The local authority in a county shall from time to time give notice to the commissioners of supply of the sums necessary to be provided under the provisions of this Act by means of the local rate; and the amount so intimated shall be assessed and collected by the commissioners of supply according to the real rent of lands and heritages as appearing on the valuation roll in force for the year, who shall pay over the same to the local authority.

The local authority in a burgh shall in like manner assess and collect the amount required to be raised by local rate within such burgh.

All such assessments shall be payable either by the tenant, who shall be entitled to deduct one half thereof from the rent payable by him to the proprietor, or from the proprietor (and that, notwithstanding anything in this Act, either with or without relief against the tenant for one half of the assessment), according as it

is declared in the resolutions of the local authority imposing the assessment.

All the provisions in regard to the recovery of assessments in the Act of the session of the twentieth and twenty-first years of Her Majesty (chapter seventy-two), "to render more effectual the "police in counties and burghs in Scotland," are herely incorporated in this Act as far as the same are not inconsistent with the provisions of this Act.

Certificate of copy for evidence. 1866 (II.) s. 8.

124. In the case of a county, a printed copy of an order or regulation of the local authority, purporting to be certified to be a true copy by the clerk of supply, shall be received in proof.

Jurisdiction under 27 & 28 Vict. c. 53. 1866 (II.) s. 6.

125. The terms "justice" and "justices" shall include any magistrate having jurisdiction under The Summary Procedure Act, 1864.

Local authority may apply to procurator fiscal. 1866 (I.) s. 28.

126. In the event of any person refusing or delaying to comply with the order of a local authority, the local authority may give information thereof to the procurator fiscal of the county or burgh, who may apply to the sheriff for a warrant to carry such order into effect, and such warrant may be executed by the officers of court in the usual way.

Sheriff to have concurrent jurisdiction. 1866 (I.) s. 29.

127. All judicial powers given to justices and quarter sessions, or to magistrates in boroughs, by this Act, may also be exercised by the sheriff of the county or the sheriff substitute.

Notice of appeal. 1866 (I.) s. 31.

128. Notice of appeal and of the grounds thereof shall be given to the clerk of the peace of the county.

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THE FIRST SCHEDULE.

Acts repealed.

38 Geo. 3. c. 65.—An Act for preventing the depasturing of forests, commons, and open fields with sheep or lambs infected with the scab or mange in that part of Great Britain called England.

11 & 12 Vict. c. 105.—An Act to prohibit the importation of sheep, cattle, or other animals, for the purpose of preventing the introduction of contagious or infectious disorders.

11 & 12 Vict. c. 107.—An Act to prevent, until the first day of September one thousand eight hundred and fifty, and to the end of the then session of Parliament, the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

16 & 17 Vict. c. 62.—An Act to extend and continue an Act of the twelfth year of Her present Majesty, to prevent the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

29 & 30 Vict. c. 2.—The Cattle Diseases Prevention Act, 1866.

29 & 30 Vict. c. 15.—An Act to amend the Act of the eleventh and twelfth years of Her present Majesty, chapter one hundred and seven, to prevent the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

29 & 30 Vict. c. 110. — The Cattle Diseases Prevention Amendment Act, 1866.

30 & 31 Vict. c. 125.—The Contagious Diseases (Animals) Act, 1867.

1866 (I.) Schedule.

THE SECOND SCHEDULE.

Local authorities, &c. in England.

District of local authority.	Description of local authority of district set opposite name.	Local rate.	Clerk of local authority.
Counties except the metropolis.	The justices in general or quarter sessions assembled.	The county rate, or rate in the nature of a county rate.	Clerk of the peace.
The metropolis (subject to the provisions of this Act respecting the city of London and the liberties thereof).	The metropolitan board of works.	Rate or fund applicable to the payment of the general expenses of the board.	The clerk of the metropolitan board of works.
Boroughs - - -	The mayor, aldermen, and burgesses acting by the council.	The borough fund or borough rate.	Town clerk.
District of local board of Oxford.	The local board	Rate leviable by the local board.	Clerk of the local board.

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THE THIRD SCHEDULE.

Regulations respecting Committees and Sub-Committees.

1. A committee formed by a local authority may consist wholly of members of the local authority, or partly thereof, and partly of such other persons being rated occupiers in the district and qualified in such other manner as the local authority determine. 1866, (I.) s. 8. 1867, s. 5.

2. A committee of a local authority and a sub-committee of an executive committee may elect a chairman of their meetings.

3. If no chairman is elected, or if the chairman elected is not present at the time appointed for the holding of a meeting, the members then present shall choose one of their number to be chairman of the meeting.

4. A committee or sub-committee may meet and adjourn as they think proper.

5. Every question at a meeting of a committee or sub-committee shall be determined by a majority of votes of the members present and voting on the question, and in case of an equal division of votes the chairman shall have a second or casting vote.

THE FOURTH SCHEDULE.

Regulations that may be applied to landing, movement, and disposal of foreign animals.

1. These regulations are to have effect with respect to those foreign animals to which they are from time to time applied by order of the Privy Council.

2. Those foreign animals are to be landed only at parts of ports defined by special orders of the Privy Council for the several ports as places where foreign animals may be landed.

3. They are to be landed in such manner, within such times, and subject to such supervision and control as the Commissioners of Customs from time to time direct.

4. The owner, consignee, or other person landing them is either before landing them or within twelve hours after landing them, at his own expense, to mark them as follows :—in case of cattle, by clipping the hair off the end of the tail, and in such further manner (if any) as the Privy Council from time to time prescribe, and in case of other animals in such manner as the Privy Council from time to time prescribe.

5. They are not to be moved from the place of landing or lairs adjacent thereto, approved by the Privy Council, except as follows :

(*a.*) After the expiration of twelve hours from the time of landing or such other period as the Privy Council from time to time prescribe.

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(*b.*) On a certificate from the veterinary inspector appointed in this behalf by the Commissioners of Customs certifying that they are free from contagious or infectious disease.

6. They are not to be moved alive out of the part of the port of landing from time to time defined in that behalf by the Privy Council.

7. Notwithstanding anything in these regulations, where a vessel comes into port having on board foreign animals maimed or injured on the voyage, the owner, consignee, or other person in charge thereof, or the master of the vessel, shall if directed by the veterinary inspector aforesaid, or may if he thinks fit, slaughter those animals or any of them immediately on their being landed; but the carcase, hide, skin, hair, wool, horn, hoof, or offal of any such animal or any part thereof is not to be moved from the place of landing, or some lair or slaughter-house adjacent thereto approved by the Privy Council, without a certificate from the veterinary inspector aforesaid certifying that it is not likely to introduce or spread contagious or infectious disease.

THE FIFTH SCHEDULE.

Maximum tolls, dues, and payments in Metropolitan Market after opening of Foreign Cattle Market.

Sheep, per head - - - -	Five farthings.
Beasts, per head - - -	Sixpence.
Calves, per head - - - -	Threepence.
Pigs, per head - - - -	Five farthings.

THE SIXTH SCHEDULE.

Rules respecting infected Places.

Part I.—Cattle Plague.

1867, s. 21.

1. The rules of this part of this schedule are to have effect with respect to infected places as regards cattle plague.

2. No animal is to be moved alive out of an infected place.

3. Any hide, skin, hair, wool, horn, hoof, or offal of any animal, or any part thereof, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed to issue licences in that behalf, certifying either that the thing moved has not formed part of an animal affected with cattle plague, or of an animal that has been in the same shed or stable, or in the same herd or flock, or in contact with an animal so affected, or that the thing moved has been disinfected.

4. The carcase of an animal, or a single portion of raw meat weighing more than twenty pounds, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed in that behalf,

certifying that the carcase or meat moved is not the carcase or part of the carcase of an animal affected with cattle plague. A.D. 1869.

5. Any dung of animals, and any hay, straw, litter, or other thing commonly used for food of animals or otherwise for or about animals, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed in that behalf, certifying that the thing moved has not been in contact with or been used for or about any animal affected with cattle plague, or that it has been disinfected.

Part II.—Sheep Pox.

1. The rules of this part of this schedule are to have effect with respect to infected places as regards sheep pox.

2. No sheep is to be moved alive out of an infected place.

3. Any skin, wool, horn, or hoof of any sheep, or any part thereof, is not to be moved out of an infected place without a license signed by an officer appointed by the local authority to issue licences in that behalf certifying that the thing moved did not belong to any sheep forming part of a flock affected with sheep pox, or to any sheep that has been on a farm or place in which that disease existed.

3. Sheds and places used by sheep affected with sheep pox are forthwith after being so used to be cleansed and disinfected.

THE SEVENTH SCHEDULE.

Pleuro-Pneumonia Rules.

1. These rules are to have effect with respect to any field, stable, cow-shed, or other premises infected by pleuro-pneumonia.

2. Cattle affected with pleuro-pneumonia are not to be moved from such field, stable, cow-shed,or other premises, or from any land or building contiguous thereto in the same occupation, except for immediate slaughter, and according to regulations to be from time to time made by the local authority for insuring such slaughter.

3. Other cattle are not to be moved from such field, stable, cow-shed, or other premises, or from any lands or buildings contiguous thereto in the same occupation, except for immediate slaughter, without a licence signed by an officer of the local authority appointed to issue licences in that behalf certifying that the cattle moved are not affected with pleuro-pneumonia, and have not been in the same shed, or herd, or in contact with cattle so affected.

4. Sheds and places used by cattle affected with pleuro-pneumonia are forthwith after being so used to be cleansed and disinfected.

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THE EIGHTH SCHEDULE.

Forms for Use by Inspector.

1867, second schedule.

(1.)

Declaration of Disease.

The Contagious Diseases (Animals) Act, 1869.

I, *A.B.* of , the inspector appointed by , being the local authority for the [county] of , hereby declare that I have this day found cattle plague [*or* pleuro-pneumonia *or* sheep-pox] to exist in the following field, stable, cowshed, or other premises, (that is to say,) [*here describe the place where the disease is found*].

Dated this day of 18 .

(Signed) *A.B.*

(2.)

Notice of Declaration to Occupiers.

The Contagious Diseases (Animals) Act, 1869.

To *C.D.* of

I, *A.B.* of , the inspector appointed by , being the local authority for the county] of , hereby give you notice, as the occupier of the following field, stable, cowshed, or other premises, (that is to say,) [*here describe the place where the disease is found,*] that I have made a declaration, a copy whereof is indorsed on this notice [*copy of declaration as filled up and signed to be indorsed*], and that in consequence thereof * the field, stable, cowshed, or other premises aforesaid, with all lands and buildings contiguous thereto in your occupation, have become and are an infected place, and that the same will continue to be an infected place * until the determination and declaration relative thereto of the local authority, as provided for in section of the above-mentioned Act, [*or in case of pleuro-pneumonia omit the part between the asterisks, and insert* the pleuro-pneumonia rules of this Act will have effect in relation to the field, stable, cowshed, or other premises aforesaid].

Dated this day of 18 .

(Signed) *A.B.*

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(3.)

Notice of Declaration to adjoining Occupiers.

The Contagious Diseases (Animals) Act, 1869.

To *E.F.* of

I, *A.B.* of , the inspector appointed by , being the local authority for the [county] of , hereby give you notice that I have made a declaration, a copy whereof is indorsed on this notice [*Copy of declaration as filled up and signed to be indorsed*], and that in consequence thereof the field, stable, cowshed, or other premises therein described, with all lands and buildings contiguous thereto in the same occupation, have become and are an infected place, and the same will continue to be an infected place until the determination and declaration relative thereto of the local authority, as provided for in section of the above-mentioned Act. And I hereby require you, as an occupier of lands and buildings adjoining to such infected place, part [*or* the whole] whereof lies within one mile of the boundaries of the infected place, to take notice that in consequence of the declaration aforesaid the rules of the said Act with respect to infected places will, until such determination and declaration of the local authority as aforesaid, apply and have effect to and in respect of the lands and buildings of which you are occupier as if the same were actually within the limits of the infected place.

Dated this day of 18 .

(Signed) *A.B.*

THE NINTH SCHEDULE.

Regulations respecting Audit.

1. The auditor shall be appointed by the Poor Law Board.

2. The auditor shall receive such remuneration as the Poor Law Board direct and the same shall be paid by the local authority, and shall, with the expenses of or incident to the audit, be deemed part of the expenditure of the local authority in compensation.

3. The audit shall be held at a place approved by the Poor Law Board and at the time fixed by the auditor, being as soon as may be after the application for the audit.

4. The auditor shall, fourteen days at least before holding the audit, give notice of the time and place for the holding thereof, by advertisement in a newspaper circulating in the district, and by a written notice delivered to or served on the clerk of the local authority.

5. The clerk of the local authority shall attend the audit, and produce to the auditor all books, bills, vouchers, and documents relating to the account.

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6. Any ratepayer in the district may be present at the audit, and may object to the account.

7. When the auditor has completed his audit, he shall sign the account, and shall also sign and deliver to the Poor Law Board and to the local authority a certificate of the amount allowed.

8. Subject to the foregoing provisions, the Poor Law Board may from time to time make such regulations respecting the audit as they think fit.

THE TENTH SCHEDULE.

1866 (I.) Sched.

Local authorities, &c. in Scotland.

District of local authority.	Description of local authority of district set opposite name.	Local rate.	Clerk of local authority.
Counties, including any town or place which does not return or contribute to return a member to parliament.	The persons appointed as provided in part X. of this Act.	Rate appointed to be levied in part X. of this Act.	Clerk of supply.
Burghs which return or contribute to return a member to parliament.	The magistrates and town council.		Town clerk.

Contagious Diseases (Animals) (No. 2).

A

BILL

[AS AMENDED IN COMMITTEE]

To consolidate, amend, and make perpetual the Acts for preventing the introduction or spreading of Contagious or Infectious Diseases among Cattle and other animals in Great Britain.

(*Prepared and brought in by Mr. Dodson, Mr. William Edward Forster, and Mr. Secretary Bruce.*)

Ordered, by The House of Commons, *to be Printed,* 3 *May* 1869.

[Bill 103.]

Under 6 *oz.*

Contagious Diseases (Animals) (No. 2) Bill.

[AS AMENDED IN COMMITTEE AND ON RECOMMITMENT.]

ARRANGEMENT OF CLAUSES.

The numbers in the first column refer to the clauses of the Bill as now amended; those in the second column to the clauses of the Bill as introduced.
*Clauses and Schedules marked thus * are amended.*
Clauses and Schedule marked thus † are new.
Clauses marked thus ‡ have been left out.

Clauses.			Provisions of former Acts. (a)
		PART I.—PRELIMINARY.	
1	1	Short title.	
2	2	Extent of Act.	
3	3	Division of Act into parts.	
4	4	* Repeal of Acts in schedule.	
5	5	Definition, &c. of Privy Council - -	1866 (II.) s. 3. 1867, s. 4.
6	6	Interpretation of terms as to animals, &c. -	1866 (I.) s. 3.
7	7	* Definition of boroughs and other places -	1866 (I.) s. 3.
8	8	Effect of schedules.	
		PART II.—LOCAL AUTHORITIES.	
9	9	Local authorities, &c. in schedule - -	1866 (I.) s. 4.
10	10	* Local authority in city of London - -	1866 (I.) s. 4.
11	11	* Appointment of committees - - -	1866 (I.) s. 8. 1867, s. 7.
		Inspectors and Officers.	
12	12	Appointment of inspectors and other officers by the local authority.	1866 (I.) s. 9.
13	13	* Removal of inspectors - - - -	1867, s. 8.
14	14	Reports to Privy Council, &c. - -	1867, s. 31.
		PART III.—FOREIGN ANIMALS.	
15	15	Power to define ports - - -	1867, s. 46.
16	16	* Power to prohibit landing - - -	1848 (I.) s. 1.
17	17	* Power to apply regulations in schedule to landing in specified cases.	1867, s. 46.
18	18	* Power to vary regulations - - . -	1867, s. 46.

(a) The former Acts are enumerated in the first schedule to the bill.
The short references to them (except the first of them, which being obsolete is not referred to) in this table and in the margins of the clauses are as follows :—

1848 (I.)—11 & 12 Vict. c. 105.
1848 (II.)—11 & 12 Vict. c. 107.
1853.—16 & 17 Vict. c. 62.
1866 (I.)—29 & 30 Vict. c. 2.
1866 (II.)—29 & 30 Vict. c. 15.
1866 (III.)—29 & 30 Vict. c. 110.
1867.—30 & 31 Vict. c. 125.

Clauses.			Provisions of former Acts.
19	19	* Provision respecting animals within port, &c.	
20	20	* Power to impose quarantine - -	1848 (I.) s. 2.
21	21	* Punishment for wrongful landing, &c. -	1848 (I.) s. 3.
22	22	Provision of wharves, lairs, &c. - -	1867, s. 47.
23	23	Incorporation of Markets, &c. Clauses Act.	
24	24	* Charges for use of wharves, &c. - -	1867, s. 47.
25	25	Power to give as security charges, estates, &c.	
26	26	Separate account and application of money received.	
27		† Special provisions respecting metropolis.	
28		† Provision on failure of mayor, &c. to provide market.	
29	27	* Continuance of defined part where market, &c. provided.	

PART IV.—DISCOVERY AND PREVENTION OF DISEASE.

30	28	* Inspector to proceed on information - -	1867, s. 9.
31	29	Power of entry for inspector, &c. - -	1866 (I.) s. 10.
32	30	* Evidence of disease - - - -	1866 (I.) s. 9.

Infected Places: Cattle Plague and Sheep-pox.

33	31	Provisional declaration of infected place by inspector.	1867, s. 11.
34	32	* Determination and declaration of local authority.	1867, s. 12.
35	33	Declaration of infected place by local authority or Council.	1867, s. 13.
36	34	Extent of area on declaration by local authority.	1867, s. 14.
37	35	Extension of area into district of other authority.	1867. s. 16.
38	36	Extent of infected place under declaration by Council.	1867, s. 14.
39	37	Area of infected places in metropolis -	1867, s. 19.
40	38	Description of infected place - - -	1867, s. 17.
41	39	Notice of declaration - - -	1867, s. 18.
42	40	Order evidence of disease - - -	1866 (II.) s. 8.
43	41	* Rules in schedule - - - -	1867, s. 21.
44	42	Offences as to infected places - -	1867, s. 22.
45	43	Exception for railways - - -	1867, s. 23.
46	44	* Power to Council to make rules as to infected places.	1867, ss. 21, 24.
47	45	Duties of local authorities, &c. - -	1867, s. 25.
48	46	Authority of constable - - -	1867, s. 26.
49	47	Discontinuance of declaration of infected places.	1867, s. 27.
50	48	Report to Council - - -	1867, s. 28.

Clauses.			Provisions of former Acts.
51	49	Effect of orders of Council	1867, s. 20.
52	50	Restriction on movement, &c. near infected places.	1867, s. 29.
		Pleuro-pneumonia.	
53	51	* Provisional declaration as to pleuro-pneumonia by inspector.	
54	52	* Determination and declaration by local authority as to pleuro-pneumonia.	
		Miscellaneous.	
55	53	* Forms in schedule	1867, s. 53.
56	54	* Exposure for sale, transport by railway, &c. of diseased animals.	1848 (II.) s. 1. 1853, s. 1. 1867, s. 49.
57	55	* Turning out of diseased animals on uninclosed lands, &c.	1848 (II.) s. 2. 1853, s. 1.
58	56	Trespass on land	1866 (II.) s. 11.
59	57	* Burial of diseased animals	1866 (I.) s. 13.
60	58	* Purification of sheds, &c. of diseased animals	1866 (I.) s. 14.
61	59	Steamboat and railway companies, &c. to disinfect carriages, boats, &c.	1867, s. 48.
62	60	Regulations for disinfecting	1867, s. 50.
63	61	* Water and food on railways.	
64		† Return of cases of disease among imported foreign animals.	
		Part V.—Slaughter in Cattle Plague; Compensation.	
65	62	Slaughter in cattle plague	1866 (I.) s. 12.
66	63	Slaughter of cattle herded with diseased animals.	1866 (I.) s. 15.
67	64	* Slaughter to ascertain disease	1867, s. 15.
68	66	* Compensation on slaughter	1866 (I.) s. 12. 1867, s. 15.
69	67	* Compensation for slaughter of cattle herded with diseased animals.	1866 (I.) s. 15.
70	68	Power to ascertain value of slaughtered animals.	1866 (I.) s. 16.
71	69	* Restrictions on compensation	1866 (I.) s. 17. 1867, 32.
72	70	Amount of insurance to be recovered	1866 (I.) s. 20.
73	65	Reservation for experimental treatment	1867, s. 15.
74		† Record respecting slaughter.	
		Part VI.—Orders of Council and Local Authorities, &c.	
75	71	* Power for Council to make orders	1848 (II.) s. 4. 1866 (II.) s. 4.
76	72	* Privy Council inspectors	1866 (I.) s. 9.
77	73	Provisions for towns, &c.	1867, s. 30.

Clauses.			Provisions of former Acts.
78	74	* Regulation, &c. of landing of hay, &c. -	1848 (I.) s. 2.
79	75	Directions of Council and local authority -	1866 (II.) s. 4.
80	76	Expenses of execution of orders - -	1867, s. 36.
81	77	* Publication of orders, &c. - - -	1848 (II.) s. 5. 1866 (II.) s. 7.
82	78	Instrument may be in print, &c. - -	1867, s. 52.
83	79	Stamp duty and fees not to be paid - -	1866 (I.) s. 9. 1866 (II.) s. 9.
84	80	Evidence of orders - - -	1866 (II.) s. 8.
85	81	Recovery of penalties.	
	82	‡ Saving for existing orders.	

PART VII.—LANDS.

86	83	Acquisition of land by local authority -	1866 (I.) s. 26.
87	84	Conveyance, &c. of lands.	
88	85	* Purchase under Provisional Order - -	21 & 22 Vict. c. 98. s. 75.

PART VIII.—EXPENSES OF LOCAL AUTHORITIES.

	86	‡ General expenses of local authority - -	1866 (I.) s. 18.
89	87	* Expenses for compensation - - -	1867, s. 33.
90		† General expenses.	
91		† Validity of rates under Act.	
92		† Remission of rate in certain cases.	
93		† Application of balance unappropriated.	
	88	‡ Expenses to be specified in precepts and orders.	1866 (III.) s. 5.
94	89	Variation of forms of precepts and orders -	Ibid. s. 6.
95	90	Advance of moneys by treasurer of local authority.	Ibid. s. 7.
96	91	* Saving of statutes applicable to rates leviable for expenses.	Ibid. s. 8
97	92	* Error in statement not to vitiate precept, &c.	Ibid. s. 9.

Borrowing.

98	93	Mortgages of rates in certain cases - -	1866 (I.) s. 22.
99	94	* Further power where expenses exceed one shilling in pound.	1866 (III.) s. 4.

Rate in aid.

100	95	* Half-yearly accounts of compensation -	1867, s. 37.
101	96	* Application to Poor Law Board by local authority for audit.	Ibid. s. 38.
102	97	* Regulations respecting audit - -	Ibid. s. 39.
103	98	* Power for Poor Law Board to make order of contribution.	Ibid. s. 40.

Clauses.			Provisions of former Acts.
104	99	Basis for contribution - - -	1867, s. 41.
105	100	Contribution to be a debt - - -	Ibid. s. 42.
106	101	* Raising of money for contribution - -	Ibid. s. 43.
107	102	Payment of money for contribution -	Ibid. s. 44.
108	103	Provision against disputing of orders of Poor Law Board, &c.	Ibid. s. 45.

PART IX.—OFFENCES AND LEGAL PROCEEDINGS.

109	104	Penalty for disobedience to Act or order -	1866 (I.) s. 27. 1867, s. 55.
110	105	Penalties on use of expired licences, &c. -	1867, s. 54. 1866 (III.) s. 10.
111	106	Punishment for obstructing inspectors, &c. -	1848 (II.) s. 7. 1866 (I.) s. 10.
112	107	* Application of penalties - - -	1866 (II.) s. 5.
113	108	Appearance of companies, &c. - -	1866 (I.) s. 30.
114	109	Appeal - - - - -	1866 (I.) s. 31.
115	110	Jurisdiction for trial of offences, &c. -	1867, s. 56.

Protection of persons in execution of Act.

116	111	Actions against persons executing Act not to be brought without notice, &c.	Ibid. s. 57.
117	112	Plea in action - - - -	Ibid. s. 58.
118	113	Evidence in action - - - -	Ibid. s. 59.
119	114	Tender of amends, &c. - - -	Ibid. s. 60.
120	115	Costs of defendant - - - -	Ibid. s. 61.
121	116	Costs, &c. of defence to actions, &c. under direction of local authority.	Ibid. s. 62.

PART X.—SCOTLAND.

122	117	* Application of part to Scotland.	
123	118	* Local authority, &c. - - -	1866 (I.) s. 4.
124	119	* Appointment of local authority in counties -	1866 (I.) s. 5. 1867, s. 6.
125		† Purchase under Provisional Order.	
126	120	* Mode of levying and recovering assessments.	1866 (I.) s. 21. 1867, s. 35.
127		† Rate in aid.	
128	121	Certificate of copy for evidence - -	1866 (II.) s. 8.
129	122	Jurisdiction under 27 & 28 Vict. c. 53. -	1866 (II.) s. 6.
130	123	Local authority may apply to procurator fiscal.	1866 (I.) s. 28.
131	124	Sheriff to have concurrent jurisdiction -	1866 (I.) s. 29.
132	125	Notice of appeal - - - -	1866 (I.) s. 31.
133		† Burgh of Maxwelltown.	

	Provisions of former Acts.

SCHEDULES.

The first schedule:

Acts repealed.

The second schedule - - - | 1866 (I.) schedule.

Local authorities, &c. in England.

*The third schedule - - - - - | 1866 (I.) s. 8. 1867, s. 5.

Regulations respecting Committees and Sub-Committees.

* The fourth schedule:

Regulations that may be applied to landing, movement, and disposal of foreign animals.

† The fifth schedule:

Maximum tolls, dues, and payments in Metropolitan Market after opening of Foreign Cattle Market.

The sixth schedule - - - - - | 1867, s. 21.

Rules respecting infected places.

*The seventh schedule:

Pleuro-Pneumonia Rules.

The eighth schedule - - - - - | 1867, second schedule.

Forms for Use by Inspector.

The ninth schedule:

Regulations respecting Audit.

The tenth schedule - - - - | 1866 (I.) schedule.

Local authorities, &c. in Scotland.

A

B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

TO

Consolidate, amend, and make perpetual the Acts for preventing the introduction or spreading of Contagious or Infectious Diseases among Cattle and other animals in Great Britain. A.D. 1869.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Part I.—Preliminary.

Short title.

1. This Act may be cited as The Contagious Diseases (Animals) Act, 1869.

Extent of Act.

2. This Act shall not extend to Ireland.

Division of Act into parts.

3. This Act is divided into parts, as follows :—

Part I.—Preliminary.
Part II.—Local authorities.
Part III.—Foreign animals.
Part IV.—Discovery and prevention of disease.
Part V.—Slaughter in cattle plague : compensation.
Part VI.—Orders of council and of local authorities.
Part VII.—Lands.
Part VIII.—Expenses of local authorities.
Part IX.—Offences and legal proceedings.
Part X.—Scotland.

Repeal of Acts in schedule.

4. The Acts described in the first schedule to this Act are hereby repealed, but this repeal shall not extend to Ireland, or affect the past operation of any of those Acts, or affect any order of Her Majesty in Council made, or any order or regulation of the Privy Council, or of a local authority made, or any licence granted, or any committee or sub-committee constituted, or any appointment made, or any right, title, obligation, or liability accrued, or any mortgage made, or the validity or invalidity of anything done or suffered

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under any of those Acts, before the passing of this Act; nor shall this repeal interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty or forfeiture incurred under, any of the Acts repealed by this Act, or any order or regulation made thereunder.

Definition, &c. of Privy Council. 1866 (II.) s. 3. 1867, s. 4.

5. In this Act the term "the Privy Council" means the lords and others of Her Majesty's Most Honourable Privy Council.

All or any powers by this Act conferred on the Privy Council may be exercised by those lords and others or any two or more of them.

Powers by this Act conferred on the Privy Council may, as regards the making of orders affecting only specified ports, towns, or places, or parts thereof, and as regards the issuing and revocation of licences under any Order of Council, be exercised by the Lord President of the Council or one of Her Majesty's Principal Secretaries of State.

Interpretation of terms as to animals, &c. 1866 (I.) s. 3.

6. In this Act—

The term "cattle" means bulls, cows, oxen, heifers, and calves:

The term "animal" means, except where it is otherwise expressed, cattle, sheep, goats, and swine:

The term "foreign," as applied to cattle or animals, means brought from any place out of the United Kingdom:

The term "cattle plague" means the rinderpest, or disease commonly called the cattle plague:

The term "contagious or infectious disease" includes cattle plague, pleuro-pneumonia, foot and mouth disease, sheep-pox, sheep-scab, and glanders, and any disease which the Privy Council from time to time by order declare to be a contagious or infectious disease for the purposes of this Act:

The term "person" includes a body corporate or unincorporate.

Definition of boroughs and other places. 1866 (I.) s. 3.

7. In this Act—

The term "borough" means a place which is for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth (chapter seventy-six), "to provide for the regulation of municipal corporations in "England and Wales," or which is a town or place having its own police independent of the county:

The term "county" does not include a county of a city or county of a town, but includes any riding, division, or parts of a county, having a separate commission of the peace:

The term "metropolis" includes all parishes and places in which the Metropolitan Board of Works have power to levy a main drainage rate.

For the purposes of this Act, the liberty of St. Albans, the liberty of the Isle of Ely, and the soke of Peterborough shall respectively be deemed separate counties, but all other liberties and franchises of counties shall be considered as forming part of the county by which they are surrounded, or if partly surrounded by two or more counties, then as forming part of that county with which they have the longest common boundary.

Every place that is not a borough, a county, or part of the metropolis as respectively defined in this Act, or is not separately mentioned in the second schedule to this Act, shall be deemed to form part of a county as defined in this Act to the county rate whereof it is assessed, or if it is not so assessed, then of the county within which it is situate.

Effect of schedules.

8. The schedules to this Act shall be construed and have effect as part of this Act.

Part II.—Local Authorities.

Local authorities, &c. in schedule. 1866 (I.) s. 4.

9. For the purposes of this Act, the respective districts, authorities, rates or funds, and officers described in the second schedule to this Act, shall be the district, the local authority, the local rate, and the clerk of the local authority.

Local authority in city of London. 1866 (I.) s. 4.

10. Notwithstanding anything in this Act or the second schedule thereto, within the city of London and the liberties thereof the mayor aldermen and commons of the city of London shall be the local authority, and the town clerk shall be the clerk of the local authority, and the consolidated rate shall be the local rate, but the city of London and the liberties thereof shall nevertheless be deemed part of the metropolis for the purposes of the local rate described in the second schedule to this Act in relation to the metropolis.

Appointment of committees. 1866 (I.) s. 8. 1867, s. 7.

11. With respect to committees of a local authority, the following provisions shall have effect :—

(1.) A local authority shall form a committee or committees, and may delegate to any such committee all or any powers conferred on the local authority by this Act, except the power to make a rate :

(2.) A local authority may from time to time revoke or alter any power given by them to a committee :

(3.) A local authority may appoint and designate any such committee as their executive committee, for the purposes of this Act :

(4.) Such an executive committee shall have all the powers of the local authority under this Act, except the power to

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make a rate, and may appoint a sub-committee or sub-committees, and delegate to them all or any powers of the executive committee, with or without conditions or restrictions, and from time to time revoke or alter any such delegation, and fix the quorum, and add to or diminish the number of the members, or otherwise alter the constitution of a sub-committee, and lay down rules for the guidance of a sub-committee, who shall act accordingly:

(5.) Proceedings of a committee or sub-committee shall not be invalidated by any vacancy in the committee or sub-committee, or, in case of a committee appointed by general or quarter sessions of a county, by the termination of the sessions at which they were appointed:

(6.) In case of the formation of two or more committees, they shall act according to rules laid down for their guidance by the local authority:

(7.) The regulations contained in the third schedule to this Act shall have effect with respect to committees and sub-committees.

Inspectors and Officers.

Appointment of inspectors and other officers by the local authority. 1866 (I.) s. 9. 1867, s. 8.

12. Every local authority shall from time to time appoint so many inspectors and other officers as appear to the local authority necessary for the execution of this Act, and shall assign them such duties and award them such salaries or allowances as the local authority think fit, and may at any time revoke any appointment so made, but so that every local authority shall at all times keep appointed at least one inspector.

Removal of inspectors. 1867, s. 8.

13. The Privy Council, if satisfied on inquiry that an inspector appointed by a local authority is incompetent, or has been guilty of misconduct or neglect in the discharge of his duty, may, if they think fit, direct his removal, and thereupon he shall cease to be an inspector for the purposes of this Act.

Reports to Privy Council, &c. 1867, s. 31.

14. Every local authority, and every inspector appointed by a local authority, shall make such reports to the Privy Council as the Privy Council from time to time require.

PART III.—FOREIGN ANIMALS.

Power to define ports. 1867, s. 46.

15. The Privy Council may from time to time by order define the limits of ports for the purposes of this part of this Act.

Power to prohibit landing.

16. The Privy Council may from time to time by order, in relation to foreign animals, or to any specified kind of foreign

animals, or to foreign animals brought from any specified country or place, prohibit the landing thereof either generally, or in any specified port, or in any defined part thereof, or elsewhere than in some specified port or ports, or than in some defined part or parts thereof.

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1848 (I.) s. 1.

This section shall extend to horses and other animals not within the definition of animals in this Act.

17. The Privy Council may from time to time by order apply to the landing, either generally, or with specified exceptions, or in some specified port, or in some defined part thereof, of foreign animals, or of any specified kind of foreign animals, or of foreign animals brought from any specified country or place, and to the movement and disposal thereof when landed, the regulations contained in the fourth schedule to this Act.

Power to apply regulations in schedule to landing in specified cases.

1867, s. 46.

18. The Privy Council may from time to time by order, in relation to foreign animals, or to any specified kind of foreign animals, or to foreign animals brought from any specified country or place, add to or vary the regulations contained in the fourth schedule to this Act.

Power to vary regulations.

1867, s. 46.

19. Where the regulations contained in the fourth schedule to this Act (with or without addition or variation) are in operation in respect of a port or a defined part thereof, then all animals for the time being within that port or defined part shall, subject to any order of the Privy Council to the contrary, be deemed foreign animals, and those regulations shall apply thereto accordingly.

Provision respecting animals within port, &c.

20. The Privy Council may from time to time by order make such regulations as they think expedient for subjecting to quarantine foreign animals, or any specified kind of foreign animals, or foreign animals brought from any specified country or place.

Power to impose quarantine.

1848 (I.) s. 2.

This section shall extend to horses and other animals not within the definition of animals in this Act.

21. If any person lands or attempts to land any foreign animal (including any horse or other animal not within the definition of animals in this Act) in contravention of any order of the Privy Council, the animal shall be forfeited in like manner as goods the importation whereof is prohibited by the Acts relating to the Customs are liable to be forfeited; and the person so offending shall be liable to such penalties as are imposed on persons importing or attempting to import goods the importation whereof is prohibited by the Acts relating to the Customs, without prejudice to any proceeding against him under this Act or any such order, but so that no person be punished twice for the same offence.

Punishment for wrongful landing, &c.

1848 (I.) s. 3.

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Provision of wharves, lairs, &c. 1867, s. 47.

22. A local authority may provide, erect, and fit up wharves, lairs, sheds, markets, houses, and places for the landing, reception, sale, and slaughter of foreign animals.

Incorporation of Markets, &c. Clauses Act.

23. There shall be incorporated with this part of this Act The Markets and Fairs Clauses Act, 1847; and for the purposes of the application and construction of that Act in conjunction with this part of this Act any place provided by a local authority under this part of this Act for the landing, reception, sale, or slaughter of foreign animals shall be deemed a market, and this part of this Act shall be deemed the special Act, and the prescribed limits shall be deemed to be the limits of the lands acquired for the purposes of this part of this Act; and byelaws shall be approved by the Privy Council, which approval shall be sufficient, without any other approval or any allowance thereof (notice of application for such approval being nevertheless given, and proposed byelaws being published before application for approval, in like manner as under that Act notice of application for allowance and publication before that application are required to be made).

Charges for use of wharves, &c. 1867, s. 47.

24. A local authority may charge for the use of any wharf, lair, shed, market, house, or place provided by them under this part of this Act such sums as they from time to time by byelaw appoint.

Power to give as security charges, estates, &c.

25. A local authority, on exercising for the purposes of this part of this Act, the borrowing powers vested in them under this Act, may, if they think fit, give as security for repayment of money borrowed with interest (either together with the local rate, if any, or separately therefrom) the charges which they are authorized to make under this part of this Act, and any estates, revenues, or funds belonging to them and not otherwise appropriated by law.

Separate account and application of money received.

26. All money received by a local authority from charges made by them under this part of this Act shall be carried to a separate account, and shall be applied in payment of interest on money borrowed by them for the purposes of this part of this Act, and in repayment of the principal thereof, and subject thereto towards discharge of expenses incurred by them in the execution of this Act.

CLAUSE A. Special provisions respecting metropolis.

27. With respect to the metropolis, notwithstanding anything in this Act or in the second schedule thereto, the following provisions shall have effect:

(1.) The mayor aldermen and commons of the city of London shall, for the purposes of this part of this Act, be exclusively the local authority in and for the metropolis:

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(2.) The mayor aldermen and commons, on exercising for the purposes of this part of this Act the borrowing powers vested in a local authority under this Act, may borrow on the credit of the property on the credit whereof they are authorized to borrow by The Metropolitan Market Act, 1865, and the money so borrowed may be secured in the manner and subject and according to the provisions in that Act authorized and contained:

(3.) All money received by the mayor aldermen and commons from charges made by them under this part of this Act shall (subject to the application thereof as in this part of this Act directed in payment of interest on and in repayment of principal of money borrowed for the purposes of this part of this Act) be applied in repayment of the principal of money borrowed by them under The Metropolitan Market Acts, 1857 and 1865, and subject thereto in discharge of expenses incurred by them in the execution of this part of this Act:

(4.) From and after the opening for public use of a market provided by the mayor aldermen and commons under this part of this Act to the satisfaction of the Privy Council (declared by order), the maximum tolls, dues, and payments that may be taken under The Metropolitan Market Act, 1857, in respect of the animals mentioned in the fifth schedule to this Act, shall be the sums in that schedule specified in lieu of those specified in schedule A. to that Act.

Clause B. Provision on failure of mayor, &c. to provide market.

28. Provided that if the mayor aldermen and commons of the city of London do not before the first day of January one thousand eight hundred and seventy-two provide and open for public use a market for the purposes of this part of this Act to the satisfaction of the Privy Council (declared by order), then on and after that day the following consequences shall ensue:

(1.) The provision of this part of this Act making the mayor aldermen and commons exclusively for the purposes of this part of this Act the local authority in and for the metropolis shall cease to operate:

(2.) The enactment in section fifteen of The Metropolitan Market Act, 1857, that no new market for the sale of cattle or horses shall be opened in the cities of London or Westminster, or the liberties thereof, or in the borough of South-

A.D. 1869.

wark, or at any place distant less than seven miles in a straight line from Saint Paul's Cathedral in the city of London, shall not prevent any local authority or person from establishing a market for the purposes of this part of this Act in or at any place named or defined in that section.

Continuance of defined part where market, &c. provided.

29. Where a local authority, with the approval of the Privy Council, have before or after the passing of this Act provided, erected, and fitted up within a part of a port defined by the Privy Council as a place where foreign animals may be landed any wharf, lair, shed, market, house, or place for the landing, reception, sale, or slaughter of foreign animals, it shall not be lawful for the Privy Council to revoke the order containing the definition of the part or parts of that port at which foreign animals may be landed, or to alter it so as to exclude therefrom any part of the site of such wharf, lair, shed, market, house, or place, except with the consent of the local authority.

PART IV.—DISCOVERY AND PREVENTION OF DISEASE.

Inspector to proceed on information. 1867, s. 9.

30. An inspector of a local authority, on receiving information of the supposed existence of cattle plague, pleuro-pneumonia, or sheep-pox, or having reasonable ground to suspect that all or any of these diseases exist in any place within his district, shall proceed to that place with all practicable speed, and execute and discharge the powers and duties by law conferred and imposed on him as inspector.

Power of entry for inspector, &c. 1866 (I.) s. 10.

31. An inspector or other officer of a local authority authorized to act in the execution of this Act may at any time enter any field, stable, cow-shed, or other premises within his district, where he has reasonable grounds for supposing that any animal affected with cattle plague, pleuro-pneumonia, or sheep-pox is to be found, for the purpose of executing this Act, but shall, if required, state in writing the grounds on which he has so entered.

If any person refuses admission to such inspector or officer acting under this section, he shall be deemed guilty of an offence against this Act.

Evidence of disease. 1866 (I.) s. 9.

32. The certificate of an inspector of a local authority to the effect that an animal within his district is affected with cattle plague, pleuro-pneumonia, or sheep-pox, shall for the purposes of this Act be conclusive evidence in all courts of justice and elsewhere of the matter certified.

Infected Places: Cattle Plague and Sheep-Pox. A.D. 1869.

Provisional declaration of infected place by inspector. 1867, s. 11.

33. Where an inspector finds cattle plague or sheep-pox to exist within his district, he shall forthwith make a declaration thereof under his hand, and shall deliver a notice under his hand of such declaration to the occupier of the field, stable, cowshed, or other premises where the disease is found, and thereupon the same, with all lands and buildings contiguous thereto in the same occupation, shall become and be an infected place, and the same shall continue to be an infected place until the determination and declaration of the local authority relative thereto in this Act provided for.

Determination and declaration of local authority. 1867, s. 12.

34. Where an inspector makes such a declaration of the existence of cattle plague or sheep-pox, he shall with all practicable speed send a copy thereof to the Privy Council, and deliver the declaration to the local authority, who shall forthwith inquire into the correctness thereof, and if it appears to them that cattle plague or sheep-pox existed as declared by the inspector, they shall so determine and declare, and shall prescribe the limits of the infected place; but if it appears to them that cattle plague or sheep-pox did not exist as declared by the inspector, and the same is certified to them in writing by one or more duly qualified veterinary surgeon or surgeons, they shall so determine and declare, and thereupon the place comprised in the inspector's declaration, or affected thereby, shall cease to be an infected place.

Declaration of infected place by local authority or Council. 1867, s. 13.

35. A local authority with respect to any place within their district, and the Privy Council with respect to any place in Great Britain, may from time to time by order declare any field, stable, cowshed, or other premises in which cattle plague or sheep-pox exists at the date of the order or has existed within seven days before that date, with or without a further area, to be from and after a time specified in the order an infected place.

Extent of area on declaration by local authority. 1867, s. 14.

36. The area of an infected place may in all cases of a declaration by a local authority include, with the field, stable, cowshed, or other premises in which cattle plague or sheep-pox has been found to exist, all lands and buildings lying contiguous thereto, being in the same occupation, and within the district of the local authority, and also (except in the metropolis) an area comprised within one mile from the boundaries of those lands in every direction, but no more.

Extension of area into district of other authority. 1867, s. 16.

37. A local authority may include in the area of an infected place any adjoining part of the district of another local authority, with the previous consent of that authority in writing signed by their clerk, but not otherwise.

Extent of infected place under declaration by council. 1867, s. 14.

38. The area of an infected place may in all cases of a declaration by the Privy Council include, with the field, stable, cowshed, or other premises in which cattle plague or sheep-pox has been found to exist, such an area as to the Privy Council seems requisite.

Area of infected places in metropolis. 1867, s. 19.

39. With respect to the metropolis the Privy Council may from time to time by order extend the limits of an infected place beyond the boundaries of the field, stable, cowshed, farm, or premises where cattle plague is declared or found to exist.

Description of infected place.

40. The area of an infected place may in any case be described by reference to a map deposited at some specified place, or by reference to townships, parishes, farms, or otherwise.

Notice of declaration. 1867, s. 18.

41. An order of a local authority declaring a place to be an infected place shall be published by the local authority by notices posted in and near the infected place, and in such other manner (if any) as they think expedient.

An order of the Privy Council declaring a place to be an infected place shall be published in like manner by and at the expense of any local authority to whom the same is sent by the Privy Council for publication.

Any want of or defect or irregularity in publication shall not invalidate any order.

Order evidence of disease. 1866 (II.) s. 8.

42. An order of a local authority or of the Privy Council declaring a place to be an infected place shall be conclusive evidence in all courts of justice and elsewhere of the existence of disease and other matters on which the order proceeds.

Rules in schedule. 1867, s. 21.

43. The rules set forth in the sixth schedule to this Act shall have effect with respect to infected places (which rules are in this Act referred to as the rules of this Act with respect to infected places).

Offences as to infected places. 1867, s. 22.

44. If any animal, hide, skin, hair, wool, horn, hoof, offal, carcase, meat, dung, hay, straw, litter, or other thing is moved in contravention of the rules of this Act with respect to infected places, every person moving the same, or causing the same to be moved, shall be deemed guilty of an offence against this Act.

Exception for railways. 1867, s. 23.

45. The rules of this Act with respect to infected places shall not restrict the moving of any animal or thing by railway through an infected place, such animal or thing not being stopped within the infected place.

Power to Council to make rules as to infected places. 1867, ss. 21, 24.

46. The Privy Council may from time to time by order make rules with respect to infected places not being inconsistent with the rules set forth in the sixth schedule to this Act; and with respect to the metropolis, the Privy Council may also from time to time, if

they think it expedient, vary the rules set forth in that schedule; and all rules and variations of rules so made shall be deemed rules of this Act with respect to infected places.

Duties of local authorities, &c. 1867, s. 25.

47. Every local authority and the police of every county, borough, town, and place shall, within their respective districts, enforce and execute the provisions of this Act and of any order of the local authority or Privy Council thereunder relative to infected places, and do or cause to be done all things from time to time necessary or expedient for securing, as far as may be, the effectual isolation of infected places in respect of the movement of animals and things.

Authority of constable. 1867, s. 26.

48. Any constable may proceed as follows:

(1.) He may apprehend any person found committing an offence against the rules of this Act with respect to infected places, and he shall take any person so apprehended, as soon as conveniently may be, before a justice of the peace to be examined and dealt with according to law; and a person so apprehended shall not be detained in custody by any constable without the order of a justice longer than is necessary for bringing him before a justice, or than twenty-four hours at longest:

(2.) He may require that any animal or thing moved out of an infected place in contravention of those rules be forthwith taken back within the limits of that place, and may enforce and execute such requisition.

Discontinuance of declaration of infected places. 1867, s. 27.

49. The local authority by whom an infected place is declared may, at any time after the expiration of twenty-eight days from the disappearance of cattle plague or sheep-pox (as the case may be) in that place, by order declare the place to be free from cattle plague or sheep-pox (as the case may be).

The Privy Council may at any time by order declare any place to be free from cattle plague or sheep-pox.

Thereupon, as from the time specified in this behalf in the order of the local authority or Privy Council, the place shall cease to be an infected place as regards cattle plague or sheep-pox (as the case may be).

Report to Council. 1867, s. 28.

50. The clerk of a local authority declaring a place to be an infected place, or declaring a place to be free from cattle plague or sheep-pox, shall forthwith report by post to the Privy Council the fact of such declaration having been made.

Effect of orders of Council. 1867, s. 20.

51. An order of the Privy Council relative to an infected place shall supersede any order of a local authority inconsistent with it.

A.D. 1869.

Restriction on movement, &c. near infected places. 1867, s. 29.

52. Where, under this Act, an inspector makes a declaration which constitutes a place an infected place, he may also, if the circumstances of the case appear to him so to require, deliver a notice under his hand of such declaration to the occupiers of all lands and buildings adjoining thereto, any part whereof respectively lies within one mile of the boundaries of the infected place in any direction, and thereupon the rules of this Act with respect to infected places shall, until the determination and declaration of the local authority relative thereto in this Act provided for, apply and have effect to and in respect of those lands and buildings as if the same were actually within the limits of the infected place.

Pleuro-pneumonia.

Provisional declaration as to pleuro-pneumonia by inspector.

53. Where an inspector finds pleuro-pneumonia to exist within his district, he shall forthwith make a declaration thereof under his hand, and shall deliver a notice under his hand of such declaration to the occupier of the field, stable, cow-shed, or other premises where the disease is found; and thereupon the rules set forth in the seventh schedule to this Act (in this Act called the pleuro-pneumonia rules of this Act) shall have effect in relation to such field, stable, cow-shed, or other premises until the determination and declaration of the local authority relative thereto in this Act provided for.

Determination and declaration by local authority as to pleuro-pneumonia.

54. Where an inspector makes a declaration of the existence of pleuro-pneumonia, he shall with all practicable speed send a copy thereof to the Privy Council, and deliver the declaration to the local authority, who shall inquire into the correctness thereof; and if it appears to them that pleuro-pneumonia existed as declared by the inspector, they shall so determine and declare, and thereupon the pleuro-pneumonia rules of this Act shall continue to apply to the field, stable, cow-shed, or other premises to which the declaration relates; but if in any such case it appears to the local authority that pleuro-pneumonia did not exist as declared by the inspector, or that a fresh case of pleuro-pneumonia has not occurred for thirty days in such field, stable, cow-shed, or other premises, then the local authority shall so determine and declare, and the pleuro-pneumonia rules of this Act shall cease to operate in relation thereto.

Miscellaneous.

Forms in schedule. 1867, s. 53.

55. The forms given in the eighth schedule to this Act, or forms to the like effect, with such variations as circumstances

require, may be used by an inspector for the purposes of this part of this Act, and when used shall be deemed sufficient. A.D. 1869.

Exposure for sale, transport by railway, &c. of diseased animals.

56. If any person exposes for sale in a market or fair or other public place or sale-yard, whether public or private, where horses or animals are commonly exposed for sale, or sends or causes to be carried on a railway or on a canal, river, or other inland navigation or on a coasting vessel, or carries, leads, or drives or causes to be carried, led, or driven on a highway or thoroughfare, any horse or animal affected with a contagious or infectious disease, he shall be deemed guilty of an offence against this Act, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of the same being so affected, and that he could not with reasonable diligence have obtained such knowledge.

1848 (II.) s. 1.
1853, s. 1.
1867, s. 49.

Where any horse or animal so affected is exposed or otherwise dealt with in contravention of this section, an inspector of the local authority or any officer of the local authority authorized to act in execution of this Act may seize the same, and cause it, if affected with glanders, cattle plague, or sheep-pox, to be slaughtered, and if affected with any other contagious or infectious disease to be removed to some convenient and isolated place, and to be there kept for such time as they think expedient; and the local authority may recover the expenses of the execution by them of this section from the owner of the horse or animal, or from the consignor or consignee thereof, who may recover the same from the owner.

In case of a conviction for an offence under this section no compensation shall be payable in respect of any animal slaughtered under this section.

Turning out of diseased animals on uninclosed lands, &c.

57. If any person places or keeps on any common or uninclosed land or in any field or other place insufficiently fenced, or on the side of a highway, any horse or animal affected with a contagious or infectious disease, he shall be deemed guilty of an offence against this Act, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of the same being so affected, and that he could not with reasonable diligence have obtained such knowledge.

1848 (II.) s. 2.
1853, s. 1.

Trespass on land.

58. Where a person having cattle in his possession or keeping within the district of a local authority wherein cattle plague exists affixes at the entrance to a building or inclosed place in or on which such cattle are kept a notice forbidding persons to enter into or on that building or place without his permission, then, if any person not having a right of entry or way into, on, or over that building or place, enters into, on, or over the same or any part

1866 (II.) s. 11.

A.D. 1869.

thereof, in contravention of the notice, he shall for every such offence be liable to a penalty not exceeding five pounds.

Burial of diseased animals. 1866 (I.) s. 13.

59. Every local authority shall cause every horse or animal that has died of glanders, cattle plague, or sheep-pox, or has been slaughtered in consequence of being affected with glanders, cattle plague, or sheep-pox, within their district, to be buried as soon as possible in its skin in some proper place, and to be covered with a sufficient quantity of quicklime or other disinfectant, and with not less than six feet of earth, or to be destroyed under inspection of the local authority in such mode as shall be approved by the Privy Council.

It shall not be lawful for any person, except with the licence of the Privy Council, to dig up or cause to be dug up the carcase or any part of the carcase of any horse or animal so buried.

Purification of sheds, &c. of diseased animals. 1866 (I.) s. 14.

60. A local authority shall cause the yard, shed, stable, field, or other premises in which any horse or animal affected with glanders or cattle plague or sheep-pox has been kept while so affected, or has died or been slaughtered, to be thoroughly cleansed and disinfected, and all hay, straw, litter, dung, or other article that has been in contact with or used about any such horse or animal to be burnt or otherwise destroyed.

No fresh animal shall be admitted into any yard, shed, stable, field, or other premises in which any animal affected with cattle plague or sheep-pox has been kept while so affected, or has died or been slaughtered, until the expiration of thirty days after the cleansing and disinfecting of such premises in pursuance of this Act.

Any such hay, straw, litter, dung, or other article shall not be removed from the premises in which any horse or animal affected with glanders or cattle plague has been, except for the purpose of being destroyed and with a licence of an inspector specifying the place at which it is to be destroyed, nor shall it be removed out of the district of the local authority without the consent in writing of the local authority into whose district it is moved. If any such thing is removed in contravention of this Act, the occupier of the premises from which it is removed and the person removing it shall each be deemed guilty of an offence against this Act.

A local authority shall direct the disinfecting of the clothes of and the use of due precautions against the spreading of contagion by inspectors and others in contact with animals affected with cattle plague.

Steamboat and railway companies

61. Every steamboat railway and other company and every person carrying animals for hire to or in Great Britain shall

thoroughly cleanse and disinfect, in such manner as the Privy Council from time to time by order direct, all steamers, vessels, boats, pens, carriages, trucks, horse-boxes, and vehicles used by such company or person for the carrying of animals.

A.D. 1869.

&c. to disinfect carriages, boats, &c.

If any company or person on any occasion fails to comply with the requisitions of any such order, such company or person shall on every such occasion be deemed guilty of an offence against this Act.

1867, s. 48.

An inspector of a local authority, or any officer of a local authority authorized to execute this Act, may at all times enter on board any steamer, vessel, or boat in respect whereof he has reasonable grounds for supposing that any company or person has failed to comply with the requisitions of any such order, and on premises where he has reasonable grounds for supposing that any pen, carriage, truck, horse-box, or vehicle in respect whereof any company or person has on any occasion so failed is to be found, and if any company or person refuses admission to an inspector or other officer acting under this section, such company or person shall be deemed guilty of an offence against this Act.

Regulations for disinfecting.

62. The Privy Council may from time to time by order give directions respecting modes of disinfecting, and anything disinfected in accordance with the provisions of such order, or in accordance with any process of disinfection approved by the Privy Council, shall be deemed disinfected within this Act, but not otherwise.

1867, s. 50.

Water and food on railways.

63. Every railway company shall make provision, to the satisfaction of the Privy Council, for the supply of water and food to animals carried by the company, the same to be supplied on the request in writing of the consignor of any animal carried, or on the request of any person in charge of any such animal at such stations as the Privy Council may direct, and the company may make in respect of such supply such reasonable charges as the Privy Council by order approve, in addition to such charges as they are for the time being authorized to make in respect of the carriage of animals; and the amount of such additional charges accrued due in respect of any animal shall be a debt from the consignor and from the consignee thereof to the company, and shall be recoverable by the company from either of them by proceedings in any court of competent jurisdiction, and the company shall have a lien for the amount thereof on the animal in respect of which the same accrued due, and on any other animal at any time consigned on the railway of the company by the same person.

A.D. 1869.

If any company on any occasion fails to comply with the requirements of this section, they shall, on every such occasion, be deemed guilty of an offence against this Act. If in the case of any animal such a request as aforesaid is not made so that the animal remains without a supply of water for thirty consecutive hours, the consignor and the person in charge of the animal shall each be deemed guilty of an offence against this Act.

Clause E. Return of cases of disease among imported foreign animals.

64. There shall be published once in every month, under the direction of the Privy Council, in the London Gazette, a return of the number of foreign animals brought by sea into any port in Great Britain which, upon inspection on landing within the last preceding month, have been found to be suffering from any infectious or contagious disorder, specifying the nature of the disorder, the port of entry at which, and the country from which such animals have arrived.

Part V.—Slaughter in Cattle Plague; Compensation.

Slaughter in cattle plague. 1866, (I.) s. 12.

65. Every local authority shall cause all animals affected with cattle plague within their district to be slaughtered.

Slaughter of cattle herded with diseased animals. 1866, (I.) s. 15.

66. A local authority may, if they think fit, cause to be slaughtered any animal that has been in the same shed or stable, or in the same herd or flock, or in contact with any animal affected with cattle plague within their district.

Slaughter to ascertain disease. 1867, s. 15.

67. Where an animal is affected with disease suspected to be cattle plague, the local authority may cause the animal to be slaughtered in order to ascertain the nature of the disease.

Compensation on slaughter. 1866, (I.) s. 12. 1867, s. 15.

68. Where an animal affected with cattle plague, or affected with disease suspected to be cattle plague, is slaughtered, in pursuance of this Act, the local authority (except as otherwise provided in this Act) shall, by way of compensation for the animal, pay to the owner thereof such sum, not exceeding twenty pounds and not exceeding one half of the value of the animal immediately before it was affected with cattle plague, as to the local authority seems fit.

Compensation for slaughter of cattle herded with diseased animals. 1866, (I.) s. 15.

69. Where a local authority causes an animal to be slaughtered on account of it having been in the same shed or stable, or in the same herd or flock, or in contact with an animal affected with cattle plague, the owner of the animal so slaughtered may either dispose of the carcase on his own account, with a licence from some officer appointed in that behalf by the local authority, or may require the local authority to dispose of the same, in which atter case the local authority shall pay to the owner thereof, by way

of compensation, such sum, not exceeding thirty pounds, as may equal three fourths of the value of the animal slaughtered. A.D. 1869.

Power to ascertain value of slaughtered animals. 1866, (I.) s. 16.

70. A local authority may require the value of any animal slaughtered under this Act to be ascertained by officers of the local authority or by arbitration, and generally may impose conditions as to evidence of the slaughter and value of the animals slaughtered.

Restrictions on compensation. 1866, (I.) s. 17. 1867, s. 32.

71. A local authority may, if they think fit, withhold compensation in respect of any animal slaughtered, where the owner or the person having the charge thereof has in their judgment been guilty, in relation to such animal, of any act in contravention of this Act, or of any order, regulation, or licence of the Privy Council or of a local authority, or has, in relation to such animal, failed to comply with the provisions of this Act, or of any such order, regulation, or licence in respect of the giving of notice of disease or in any other respect, and may, if they think fit, withhold compensation in respect of a foreign animal slaughtered on account of it being affected with cattle plague, or with disease suspected to be cattle plague, if it appears to them that the animal was so affected at the time of the landing thereof.

Amount of insurance to be recovered. 1866, (I.) s. 20.

72. Where an animal has been slaughtered in pursuance of this Act, the owner thereof shall not be entitled to recover in respect of the insurance thereof any sum which, together with the payment which he receives for the same under this Act, would exceed the sum which he would have been entitled to receive in respect of the insurance.

Reservation for experimental treatment. 1867, s. 15.

73. The Privy Council may, notwithstanding anything in this Act, reserve for experimental treatment any animal ordered to be slaughtered under this Act, but compensation shall be payable in respect thereof as if this section had not been enacted.

Clause F. Record respecting slaughter.

74. Every local authority shall keep, in such manner and form as the Privy Council from time to time by order direct or approve, a record relative to proceedings under this part of this Act, stating the date of any order for slaughter, and the execution of the order, or the reservation of the animal for experimental treatment (as the case may be), and other proper particulars; and such record shall be evidence if any question arises concerning an order for the slaughter of any animal, or concerning compensation in respect thereof.

A.D. 1869.

Part VI.—Orders of Council and Local Authorities.

Power for Council to make orders. 1848, (II.) s. 4. 1866, (II.) s. 4.

75. The Privy Council may from time to time make such orders as they think expedient for all or any of the following purposes:

For prohibiting or regulating the movement of animals, and the removal of dead animals or parts thereof, and of hay, straw, litter, dung, and other things likely to spread contagious or infectious diseases among animals:

For requiring the cleansing and disinfecting of yards, sheds, stables, fields, and other premises:

For regulating the disposal of animals dying while affected with a contagious or infectious disease:

For requiring notice of the appearance of any such disease among animals:

For prohibiting or regulating the holding of markets, fairs, exhibitions, or sales of animals:

And generally any orders whatsoever which they think it expedient to make for the better execution of this Act, or for the purpose of in any manner preventing the spreading of contagious or infectious disease among animals (whether any such orders are of the same kind as the kinds enumerated in this section or not), and may in any such order direct or authorize the slaughtering of animals that are affected with any contagious or infectious disease, or that have been in contact with animals so affected; and this section shall extend to horses and all ruminating animals not within the definition of animals in this Act.

Every such order shall have the like force and effect as if it had been enacted by this Act.

Privy Council inspectors. 1866 (I.) s. 9.

76. A person for the time being appointed by the Privy Council an inspector for the purposes of this Act shall have for and throughout Great Britain all such powers, authorities, and privileges as an inspector of a local authority has within or in relation to his district, and a direction of the Privy Council shall in the case of an inspector appointed by them be deemed equivalent to a direction of a local authority in the case of an inspector appointed by them.

Provisions for towns, &c. 1867, s. 30.

77. The Privy Council may from time to time, by order, declare that such of the provisions of this Act, and of any order of the Privy Council under it, as relate to the metropolis, or any of those provisions, shall also extend and apply to any town, city, parish, or place specified in the order, and the same shall extend to such town, city, parish, or place accordingly; and the Privy Council may at any time revoke or from time to time vary any such order.

A.D. 1869.

Regulation, &c. of landing of hay, &c. 1848 (I.) s. 2.

78. The Privy Council may from time to time by order make such regulations as they think expedient for prohibiting or regulating the landing of any hay, straw, fodder, or other article brought from any place out of the United Kingdom, whereby it appears to the Privy Council infection or contagion may be conveyed to animals, or for causing the same to be destroyed if landed.

If any person lands or attempts to land any hay, straw, fodder, or other article in contravention of any such order, the same shall be forfeited in like manner as goods the importation whereof is prohibited by the Acts relating to the Customs are liable to be forfeited, and the person so offending shall be liable to such penalties as are imposed on persons importing or attempting to import goods the importation whereof is prohibited by the Acts relating to the Customs, without prejudice to any proceeding against him under this Act or any such order, but so that no person be punished twice for the same offence.

Directions of Council and local authority. 1866, (II.) s. 4.

79. The Privy Council may require a local authority to carry into effect any order of the Privy Council under this Act, and may authorize a local authority to make any regulations for the purpose of preventing the spreading of contagious or infectious diseases among animals, subject to such conditions as the Privy Council impose.

Expenses of execution of orders. 1867, s. 36.

80. The expenses incurred by a local authority in executing any order of the Privy Council under this Act shall be defrayed as such order directs, and subject to or in the absence of any such direction shall be deemed expenses incurred by the local authority in pursuance of this Act.

Publication of orders, &c. 1848 (II.) s. 5. 1866 (II.) s. 7.

81. Every order of the Privy Council under this Act shall be published in the London Gazette, save that where an order of the Privy Council affects only a particular port, town, or place, or part thereof, specified in the order, or declares a place to be an infected place, or to be free from cattle plague or from sheep-pox, or is in the nature of a licence under an order of Council, or of a revocation of such a licence, then the insertion in the London Gazette of a notice of the issuing thereof shall be for all purposes sufficient publication thereof.

Any order of the Privy Council under this Act shall be published, by and at the expense of any local authority to whom the same is sent by the Privy Council for publication, in some newspaper circulating in the district of the local authority, or in such other manner as the Privy Council direct.

Any order or regulation made by a local authority shall be published by them at their own expense in such manner as the

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Privy Council direct, and, subject to or in the absence of any such direction, in such manner as the local authority think sufficient and proper to ensure publicity.

Instrument may be in print, &c. 1867, s. 52.

82. Any order, licence, regulation, or other instrument made under this Act, or under any order of the Privy Council thereunder, may be in writing or print, or partly in writing and partly in print.

Stamp duty and fees not to be paid. 1866, (I.) s. 9. 1866, (II.) s. 9.

83. No stamp duty shall be payable on, and no fee or other charge shall be demanded or made for, any appointment, certificate, declaration, or licence under this Act, or any order or regulation made thereunder.

Evidence of orders. 1866 (II.) s. 8.

84. An order or regulation made or issued by a local authority under this Act, or under any order of the Privy Council, may be proved as follows:—

By the production of a copy of a newspaper containing a copy of such order or regulation; or

By the production of a printed copy of such order or regulation, purporting to be certified to be a true copy by the clerk of the peace where the authority are justices in general or quarter sessions assembled, or by the town clerk or other officer performing the duties of a town clerk in the case of an authority having a town clerk or other officer as aforesaid, or by such other officer as the Privy Council prescribe:

And any such order or regulation shall, until the contrary is proved, be deemed to have been duly made and issued at the time at which it bears date.

Recovery of penalties.

85. Penalties and forfeitures shall be recoverable and applicable under an order of the Privy Council, or an order or regulation of a local authority, as penalties and forfeitures under this Act are recoverable and applicable.

Part VII.—Lands.

Acquisition of land by local authority. 1866 (I.) s. 26.

86. A local authority may purchase or take on lease or at a rent land for the purpose of burying therein animals dying of or slaughtered on account of any contagious or infectious disease, or for the purpose of providing wharves, lairs, sheds, markets, houses, and places for the landing, reception, sale, and slaughter of foreign animals, or for any other purpose of this Act, and may sell, exchange, or dispose of lands acquired by them under this Act, but not required to be retained for the purposes thereof.

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Conveyance, &c. of lands.

87. Land purchased or taken on lease or at a rent under this Act by a local authority, not being a body corporate, shall be assured or demised to the local authority and their successors, in trust for the purposes of this Act, and shall be accepted, taken, and held by them as a body corporate.

Purchase under provisional order. 21 & 22 Vict. c. 98. s. 75.

88. The regulations contained in section seventy-five of The Local Government Act, 1858, shall be observed with respect to the purchase of land by a local authority for the purposes of this Act, and shall apply and have effect as if the local authority were a local board acting under the Local Government Act, and the purposes of this Act were purposes of that Act, save that the advertisements and notices requisite under that section may be published and served in any two consecutive months instead of only in the months therein specified, and that the local rate be substituted for rates therein mentioned; and the powers conferred by this section may be exercised by a local authority with respect to land either within or without their district.

Part VIII.—Expenses of Local Authorities.

Expenses for compensation. 1867, s. 33.

89. The expenditure of a local authority in pursuance of this Act in compensation for animals slaughtered, or in respect of principal of or interest on money borrowed in pursuance of this Act or of any Act repealed by this Act, shall be defrayed out of the local rate, or out of a separate rate to be levied in all respects as the local rate, and included under the term local rate.

Any person who is not the owner of the premises in respect of which he is rated under this section to the local rate may deduct from the growing rent due to the owner of such premises one half of the rate payable by him for the purposes of this section, and every owner shall allow such deduction accordingly.

The owner for the purposes of this section shall be the person for the time being entitled to receive the rackrent of the premises in respect of which the rate is made on his own account, or who would be entitled to receive the same if such premises were let at a rackrent, including under the term rackrent any rent which is not less than two thirds of the net annual value of the premises out of which the rent issues.

Every local authority shall have power, notwithstanding any limit in any Act of Parliament, to levy a local rate to the amount required for the purposes of this Act, but every rate or increase of rate levied under this section shall in all precepts for the levy thereof be described as a separate rate or separate item of rate,

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and when collected from the individual ratepayers shall be collected as a separate rate or specified as a separate item of rate.

Every order of a board of guardians for contributions of moneys, out of which any such expenditure as in this section mentioned is payable, shall state the amount in the pound of contribution required for such expenditure; and the overseers, on the receipt given to any ratepayer for poor rate, shall specify the amount (if any) collected in respect of such expenditure.

CLAUSE G. General expenses.

90. Expenses incurred by a local authority in pursuance of this Act, other than such expenditure as is in the last foregoing section mentioned, shall be defrayed out of the local rate.

CLAUSE H. Validity of rates under Act.

91. The existence of any order or precept for the making or collection under any Act repealed by this Act of any rate remaining uncollected wholly or in part at the passing of this Act shall not affect the validity of any rate made under this Act.

CLAUSE C. Remission of rate in certain cases.

92. Where before the twentieth day of February one thousand eight hundred and sixty-six any person suffered so great a loss of cattle by cattle plague as to entitle him, after the passing of this Act, in the opinion of the local authority, to a remission in whole or in part of the amount due from him in respect of the local rate, such remission may be granted by the local authority.

CLAUSE D. Application of balance unappropriated.

93. Where at the passing of this Act a local authority have in their hands an unappropriated balance of a local rate levied under any Act repealed by this Act, they may, if they think fit, apply any part of such balance in compensation for cattle slaughtered between the passing of the Act twenty-ninth and thirtieth Victoria, chapter two, February twentieth one thousand eight hundred and sixty-six, and the appointment of inspectors under that Act, by direction of a person whom the owner of such cattle had reasonable ground to believe to be the authorized inspector for the execution of the Act; they may carry such balance or any part thereof to the credit of the ordinary account of the local rate, to be applied for any of the purposes for which the local rate when levied under any Act other than an Act repealed by this Act is applicable.

Variation of forms of precepts and orders. 1866 (III.) s. 6.

94. All precepts, orders for contribution, and forms of poor rate shall, where necessary, be varied in such manner as may be required for carrying into effect this Act.

Advance of moneys by treasurer of

95. The treasurer of a local authority may, if directed by them, advance out of any moneys for the time being in his hands any

sums required for payment of expenses incurred by them in pursuance of this Act.

local authority. Ibid. s. 7.

96. Where the local rate is a county rate or borough rate, or any other such rate as is mentioned in the second schedule to this Act, all the provisions of the statutes applicable to the making, levying, and collecting of a county rate, borough rate, or other rate shall apply, notwithstanding that the whole of such rate, or any part thereof, is applicable to the payment of the expenditure of a local authority in pursuance of this Act in compensation for animals slaughtered, or in respect of principal of or interest on money borrowed in pursuance of this Act, or of any Act repealed by this Act.

Saving of statutes applicable to rates leviable for expenses. Ibid. s. 8.

97. An error in the statement of the amount of expenses in any precept, warrant, contribution, order, or receipt issued or given under this Act shall not invalidate such precept, warrant, contribution, order, or receipt; but any person aggrieved by the error may appeal to the justices in petty sessions, and the justices may rectify the error, and award to the appellant compensation for any loss he may have sustained thereby, the amount of such compensation to be paid to the appellant as expenses under this Act.

Error in statement not to vitiate precept, &c. Ibid. s. 9.

Borrowing.

98. Where the rate levied or required for the purposes of this Act exceeds or would exceed sixpence in the pound, a local authority may, for the purposes of defraying any costs, charges, and expenses under this Act, borrow at interest on the credit of the local rate any sums of money necessary for defraying such costs, charges, and expenses; and for the purpose of securing the repayment of any sums of money so borrowed, together with such interest as aforesaid, the local authority may mortgage the local rate for any period not exceeding seven years.

Mortgage of rates in certain cases. 1866 (I.) s. 22.

Where the rate levied or required for the purposes of this Act exceeds or would exceed ninepence in the pound, the Commissioners of Her Majesty's Treasury may, on application from the local authority, extend the term to any term not exceeding fourteen years, and the local authority may mortgage the rate accordingly.

Provided that where the local authority borrow for any purpose of this Act on any security other than the local rate (whether together with the local rate, if any, or separately therefrom) the limitations in this section contained respecting the amount of rate and the term of years shall not operate.

The provisions of The Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, shall

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be incorporated with this section, the local authority being deemed to be the commissioners, and any mortgagee or assignee may enforce payment of his principal and interest by appointment of a receiver.

The Public Works Loan Commissioners may, with the approval of the Commissioners of Her Majesty's Treasury, advance to a local authority, on the security of the local rate, without any further security, any sums of money to be applied for the purposes of this Act, and to be repaid, with interest, within any period as aforesaid.

Further power where expenses exceed one shilling in pound. 1866 (III.) s. 4.

99. Where the estimated amount of the sum required to be levied for payment of the expenditure of a local authority in pursuance of this Act (including expenditure incurred in the payment of money borrowed or of interest thereon) exceeds the sum that would be raised by the levying of a rate of one shilling in the pound on the rateable value of the property assessed to the local rate, the local authority may borrow from the Public Works Loan Commissioners, and the Public Works Loan Commissioners may, out of the balance for the time being unapplied of any money by any Act already passed authorized to be issued for the purposes of loans under any Act repealed by this Act, or out of any other money for the time being authorized to be issued for the purpose of loans under this section, lend to them, such sums as may be required, subject to the following provisions (which shall also extend, as far as they are applicable, to any loan made by those commissioners under any Act repealed by this Act):

1. Every such loan shall be made with the sanction of the Commissioners of Her Majesty's Treasury:
2. Interest shall be at the rate of three and a quarter per centum per annum:
3. Repayment of the loan shall be made by such number of equal annual instalments, not exceeding thirty, as the Commissioners of Her Majesty's Treasury direct:
4. The Commissioners of Her Majesty's Treasury may, if they think fit, authorize the postponement, for a period not exceeding two years, of any payment of principal or interest becoming due within the first three years:
5. Repayment of the loan and interest shall be secured by a mortgage of the local rate, and it shall not be incumbent on the Public Works Loan Commissioners to require any other security:
6. The local authority shall have power to levy and shall levy rates requisite for the purpose of repaying the loan with interest:

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7. The sanction of the Commissioners of Her Majesty's Treasury to the loan shall be conclusive evidence that it is authorized by this Act; and no objection shall be made by any ratepayer to the validity of any mortgage for the loan, or to the application of the proceeds of the local rate to the payment of the principal or interest of the loan:

8. The Commissioners of Her Majesty's Treasury may, by agreement with the local authority borrowing, commute into an equivalent annuity terminable at the time fixed for the liquidation of the annual instalments aforesaid, the payments secured by the mortgage or any portion of such payments.

Rate in aid.

Half-yearly accounts of compensation. 1867, s. 37.

100. Each local authority shall cause an account of their expenditure in compensation for animals slaughtered, after the passing of this Act, to be made up to Michaelmas Day in each year, or to such other yearly day as the Poor Law Board from time to time direct.

Application to Poor Law Board by local authority for audit. Ibid. s. 38.

101. Where from such yearly account of a local authority it appears that their expenditure in compensation in any year exceeds the rate of ninepence in the pound on the annual rateable value of the property in the district, the local authority may apply to the Poor Law Board for an audit of their accounts for that year, and the Poor Law Board shall direct an audit accordingly.

Regulations respecting audit. Ibid. s. 39.

102. With respect to such audit the regulations set forth in the ninth schedule to this Act shall have effect.

The auditor shall, as nearly as may be, have the like powers, and be under the like obligation, to allow and disallow items in the account as the auditor in the case of an audit under the authority of the Poor Law Board of the account of an overseer; and there may be an appeal by any person aggrieved by the decision of the auditor in like manner, as nearly as may be, as in the case of such last-mentioned audit.

Power for Poor Law Board to make order of contribution. Ibid. s. 40.

103. If on any such audit it appears to the Poor Law Board from the certificate of the auditor that the expenditure of the local authority in compensation within the year of account has exceeded the rate of ninepence in the pound on the annual rateable value of the property in the district of the local authority, the Poor Law Board shall make a general order directed to the several local authorities whose districts adjoin to the district of the local authority on whose behalf the order is made, and to the several local authorities whose districts are locally situate (wholly or partly) within the district of the local authority on

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whose behalf the order is made or within such adjoining districts, and shall thereby require those several local authorities to contribute a sum of money to meet such excess of expenditure; but so that a local authority shall not be required to contribute any sum of money beyond an amount sufficient, together with any local or separate rate raised in the district, to bring the charge for the year up to ninepence in the pound on the annual rateable value.

Basis for contribution.
Ibid. s. 41.

104. The sums to be so contributed by local authorities shall be assessed on them by the Poor Law Board in proportion to the annual rateable value of the property in their respective districts, to be determined according to the valuation lists, or where there are none, on such other basis as the Poor Law Board from time to time direct.

Contribution to be a debt.
Ibid. s. 42.

105. The sum to be so contributed by a local authority shall be a debt due from them to the local authority on whose behalf the order is made, and the order of the Poor Law Board shall be for all purposes conclusive evidence of the existence and amount of such debt.

Raising of money for contribution.
Ibid. s. 43.

106. The money to be so contributed by a local authority shall be deemed expenditure in compensation for animals slaughtered, and shall be raised accordingly.

Payment of money for contribution.
Ibid. s. 44.

107. The amount to be so contributed by a local authority shall, when raised, be paid to the treasurer or other proper officer of the local authority on whose behalf the order of the Poor Law Board is made.

Provision against disputing of orders of Poor Law Board, &c.
Ibid. s. 45.

108. An order of the Poor Law Board under this Act shall not be liable to be removed into a court of law by certiorari or otherwise, nor shall an order of a local authority, or a rate, made to carry into effect the provisions of this Act relative to contribution, be liable to question in a court of law on the ground of its having been made wholly or partly in furtherance of any such order of the Poor Law Board.

PART IX.—OFFENCES AND LEGAL PROCEEDINGS.

Penalty for disobedience to Act or order.
1866 (I.) s. 27.
1867, s. 55.

109. If any person acts in contravention of or is guilty of any offence against this Act, or any order made by the Privy Council or a local authority in pursuance of this Act, he shall for every such offence (except as otherwise provided in this Act, and except where a less penalty is provided in any such order,) be liable to a penalty not exceeding twenty pounds.

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Where any such offence is committed with respect to more than four animals a penalty not exceeding five pounds for each animal may be imposed instead of the penalty of twenty pounds.

Where any such offence is committed in relation to offal, dung, hay, straw, litter, or other thing, a further penalty not exceeding ten pounds may be imposed in respect of every half ton in weight of such offal or other thing after the first half ton.

Penalties on use of expired licences, &c. 1867, s. 54. 1866, (III.) s. 10.

110. If any person does any of the following things he shall be deemed guilty of an offence against this Act:

(1.) If he does anything for which a licence is requisite under this Act, or any order of the Privy Council thereunder, without having obtained a licence:

(2.) If where such a licence is requisite, having obtained a licence in that behalf, he does the thing licensed after the licence has expired:

(3.) If he uses or offers or attempts to use as such a licence an instrument not being a complete licence, or an instrument untruly purporting or appearing to be a licence, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such incompleteness or untruth, and that he could not with reasonable diligence have obtained such knowledge:

(4.) If, with intent to evade any provision of this Act or of any order of the Privy Council thereunder, he fabricates or alters, or offers or utters, knowing the same to be fabricated or altered, any licence, declaration, certificate, or instrument made or issued or purporting to be made or issued under or for any purpose of this Act or any such order:

(5.) If, for the purpose of obtaining any licence, certificate, or instrument under or for the purposes of any such provision, he makes a declaration false in any material particular, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

(6.) If he obtains or endeavours to obtain any such licence, certificate, or instrument by means of any false pretence, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

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(7.) If he grants or issues any such licence, certificate, or instrument, being false in any material particular, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

And in any such case he shall be liable, on conviction, in the discretion of the justices, to be imprisoned for any term not exceeding three months, with or without hard labour, in lieu of the pecuniary penalty to which he is liable under this Act.

Punishment for obstructing inspectors, &c. 1848 (II.) s. 7. 1866 (I.) s. 10.

111. If any person obstructs or impedes an inspector or other officer acting in execution of this Act or of any order of the Privy Council thereunder, he, and every person aiding and assisting him therein, shall be guilty of an offence against this Act, and the inspector or other officer, or any person whom he calls to his assistance, may seize the offender and detain him until he can be conveniently taken before a justice, to be dealt with according to law.

Application of penalties. 1866 (II.) s. 5.

112. Notwithstanding anything in any Act relating to the metropolitan police, or to municipal corporations, or in any other Act, one half of every penalty or forfeiture recovered under this Act shall be paid to the person who sues or proceeds for the same, and the other half shall be applied as if this section had not been enacted.

Appearance of companies, &c. 1866 (I.) s. 30.

113. In proceedings before justices under this Act, any railway company or other body corporate may appear by any member of their board of directors or council, or by any officer authorized in writing under the hand of any director or member of the council of the company or body.

Appeal. 1866 (I.) s. 31.

114. If any party feels aggrieved by the dismissal of his complaint by justices, or by any determination or adjudication of justices with respect to any penalty or forfeiture under this Act, he may appeal therefrom, subject to the conditions and regulations following:

1. The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days and not more than four months after the decision of the justices:
2. The appellant shall, within three days after the cause of appeal has arisen, give notice to the clerk of the petty sessional division for which the justices act whose decision is appealed from of his intention to appeal, and of the grounds thereof:

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3. The appellant shall immediately after such notice enter into a recognizance, before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court:

4. The court may adjourn the appeal, and may make such order thereon as they think just:

But nothing in this section respecting appeals shall affect any enactment relative to appeals in cases of summary convictions or adjudications in the city of London or the metropolitan police district.

Jurisdiction for trial of offences, &c. 1867, s. 56.

115. For the purposes of proceedings under this Act, or any order of the Privy Council or order or regulation of a local authority thereunder, every offence against this Act or any such order or regulation shall be deemed to have been committed, and every cause of complaint under this Act or any such order or regulation shall be deemed to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the person charged or complained against happens to be.

Protection of persons in execution of Act.

Actions against persons executing Act not to be brought without notice, &c. Ibid. s. 57.

116. An action or proceeding shall not lie against any person acting or intending to act under the authority or in the execution or in pursuance of this Act for any alleged irregularity or trespass or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding, and the name and residence of the intending plaintiff or prosecutor, and of his attorney or agent in the matter,) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within four months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within four months next after the doing of such damage has ceased; and any such action shall be laid and tried in the county or place where the cause of action arose, and not elsewhere.

Plea in action. Ibid. s. 58.

117. In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting or intending to act under the authority or in the execution or in pursuance of this Act, and may give all special matter in evidence.

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Evidence in action. 1867, s. 59.

118. On the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action not stated in his notice.

Tender of amends, &c. Ibid. s. 60.

119. The plaintiff in any such action shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made the defendant may, by leave of the court in which the action is brought, at any time pay into the court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on the payment of money into court in an ordinary action.

Costs of defendant. Ibid. s. 61.

120. If in any such action the plaintiff does not succeed in obtaining judgment, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review; and though a verdict is given for the plaintiff in the action, he shall not have costs against the defendant unless the judge before whom the trial is had certifies his approval of the action and verdict.

Costs, &c. of defence to actions, &c. under direction of local authority. Ibid. s. 62.

121. Where any such action or proceeding is defended under the direction or with the approval of the local authority, the costs, charges, and expenses incurred in and about the same by or on behalf of the defendant and payable by him, and any damages or other money recovered against or payable by him in or in consequence of such action or proceeding, shall be deemed expenses incurred by the local authority in pursuance of this Act, and shall be defrayed accordingly.

PART X.—SCOTLAND.

Application of part to Scotland.

122. The provisions of this part of this Act shall extend to Scotland only, and shall have effect in substitution for the provisions of the preceding parts of this Act, when so expressed or implied, and otherwise shall have effect in addition to the provisions thereof.

Local authority, &c. 1866, (I.) s. 4.

123. For the purposes of this Act the respective districts, authorities, rate, and officers described in that behalf in the tenth schedule to this Act shall be the district, the local authority, the local rate, and the clerk of the local authority.

Appointment of local authority in counties.

124. The commissioners of supply in every county shall meet, and nominate not fewer than four or more than fifteen of their number to act on the county board for the purposes of this Act, and shall

intimate to the lord lieutenant of the county and the convener of the county the number and names of the persons so appointed. A.D. 1869. 1866, (I.) s. 5. 1867, s. 6.

The lord lieutenant shall nominate an equal number of persons, being tenants of agricultural subjects valued in the valuation roll in force for the time at one hundred pounds a year or upwards, within such county, to act on the county board, and shall intimate the names of the persons so nominated to the convener of the county.

Any such nomination and intimation made for the purposes of any Act repealed by this Act shall continue to have effect for the purposes of this Act.

Vacancies from time to time happening by death, resignation, or otherwise among the members of the local authority shall be filled up by the authority and in the manner by and in which the members vacating office were respectively nominated.

The persons nominated as in this section provided, and the lord lieutenant of the county, the convener of the county, and the sheriff of the county (or in his absence such one of his substitutes within the county as he directs by writing under his hand), for the time being, shall constitute the local authority.

As far as not otherwise provided by this Act, such local authority shall have all the powers conferred on the local authority by this Act, and shall have power to elect a chairman, specify a quorum, and make all regulations necessary for carrying the purposes of this Act into effect.

The chairman of the local authority, and in default of him the convener of the county, and in default of him any three members of the local authority, may at any time call a meeting of the local authority, to be held at such time and place as he or they may fix, and the local authority may adjourn as they from time to time think fit.

Clause I. Purchase under provisional order.

125. Part VII. of this Act shall have effect as if section ninety of "The Public Health (Scotland) Act, 1867," were thereby applied, instead of section seventy-five of "The Local Government Act, 1858."

Mode of levying and recovering assessments. 1866 (I.) s. 21. 1867, s. 35.

126. The local authority in a county shall from time to time give notice to the commissioners of supply of the sums necessary to be provided under the provisions of this Act by means of the local rate; and the amount so intimated shall be assessed and collected by the commissioners of supply according to the real rent of lands and heritages as appearing on the valuation roll in force for the year, who shall pay over the same to the local authority.

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The local authority in a burgh shall in like manner assess and collect the amount required to be raised by local rate within such burgh.

All such assessments shall be payable either by the tenant, who shall be entitled to deduct one half thereof from the rent payable by him to the proprietor, or by the proprietor (and that, notwithstanding anything in this Act, either with or without relief against the tenant for one half of the assessment), according as it is declared in the resolutions of the local authority imposing the assessment.

All the provisions in regard to the recovery of assessments in the Act of the session of the twentieth and twenty-first years of Her Majesty (chapter seventy-two), "to render more effectual the "police in counties and burghs in Scotland," are hereby incorporated in this Act as far as the same are not inconsistent with the provisions of this Act.

CLAUSE K. Rate in aid.

127. The provisions of Part VIII. of this Act, and of the ninth schedule to this Act, relative to a rate in aid, shall have effect as if the board of supervision for the relief of the poor in Scotland were mentioned throughout those provisions instead of the Poor Law Board.

Certificate of copy for evidence. 1866 (II.) s. 8.

128. In the case of a county, a printed copy of an order or regulation of the local authority, purporting to be certified to be a true copy by the clerk of supply, shall be received in proof.

Jurisdiction under 27 & 28 Vict. c. 53. 1866 (II.) s. 6.

129. The terms "justice" and "justices" shall include any magistrate having jurisdiction under The Summary Procedure Act, 1864.

Local authority may apply to procurator fiscal. 1866 (I.) s. 28.

130. In the event of any person refusing or delaying to comply with the order of a local authority, the local authority may give information thereof to the procurator fiscal of the county or burgh, who may apply to the sheriff for a warrant to carry such order into effect, and such warrant may be executed by the officers of court in the usual way.

Sheriff to have concurrent jurisdiction. 1866 (I.) s. 29.

131. All judicial powers given to justices and quarter sessions, or to magistrates in boroughs, by this Act, may also be exercised by the sheriff of the county or the sheriff substitute.

Notice of appeal. 1866 (I.) s. 31.

132. Notice of appeal and of the grounds thereof shall be given to the clerk of the peace of the county.

CLAUSE L. Burgh of Maxwelltown.

133. For the purposes of this Act the burgh of Maxwelltown shall be held to be a part of the stewartry of Kirkcudbright and not of the parliamentary burgh of Dumfries.

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THE FIRST SCHEDULE.

Acts repealed.

38 Geo. 3. c. 65.—An Act for preventing the depasturing of forests, commons, and open fields with sheep or lambs infected with the scab or mange in that part of Great Britain called England.

11 & 12 Vict. c. 105.—An Act to prohibit the importation of sheep, cattle, or other animals, for the purpose of preventing the introduction of contagious or infectious disorders.

11 & 12 Vict. c. 107.—An Act to prevent, until the first day of September one thousand eight hundred and fifty, and to the end of the then session of Parliament, the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

16 & 17 Vict. c. 62.—An Act to extend and continue an Act of the twelfth year of Her present Majesty, to prevent the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

29 & 30 Vict. c. 2.—The Cattle Diseases Prevention Act, 1866.

29 & 30 Vict. c. 15.—An Act to amend the Act of the eleventh and twelfth years of Her present Majesty, chapter one hundred and seven, to prevent the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

29 & 30 Vict. c. 110.—The Cattle Diseases Prevention Amendment Act, 1866.

30 & 31 Vict. c. 125.—The Contagious Diseases (Animals) Act, 1867.

1866 (I.) Schedule.

THE SECOND SCHEDULE.

Local authorities, &c. in England.

District of local authority.	Description of local authority of district set opposite name.	Local rate.	Clerk of local authority.
Counties except the metropolis.	The justices in general or quarter sessions assembled.	The county rate, or rate in the nature of a county rate.	Clerk of the peace.
The metropolis (subject to the provisions of this Act respecting the city of London and the liberties thereof).	The metropolitan board of works.	Rate or fund applicable to the payment of the general expenses of the board.	The clerk of the metropolitan board of works.
Boroughs - -	The mayor, aldermen, and burgesses acting by the council.	The borough fund or borough rate.	Town clerk.
District of local board of Oxford.	The local board	Rate leviable by the local board.	Clerk of the local board.

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THE THIRD SCHEDULE.

Regulations respecting Committees and Sub-Committees.

1866, (I.) s. 8. 1867, s. 5.

1. A committee formed by a local authority may consist wholly of members of the local authority, or partly thereof, and partly of such other persons being rated occupiers in the district and qualified in such other manner as the local authority determine.

2. A committee of a local authority and a sub-committee of an executive committee may elect a chairman of their meetings.

3. If no chairman is elected, or if the chairman elected is not present at the time appointed for the holding of a meeting, the members then present shall choose one of their number to be chairman of the meeting.

4. A committee or sub-committee may meet and adjourn as they think proper.

5. Every question at a meeting of a committee or sub-committee shall be determined by a majority of votes of the members present and voting on the question, and in case of an equal division of votes the chairman shall have a second or casting vote.

THE FOURTH SCHEDULE.

Regulations that may be applied to landing, movement, and disposal of foreign animals.

1. These regulations are to have effect with respect to those foreign animals to which they are from time to time applied by order of the Privy Council.

2. Those foreign animals are to be landed only at parts of ports defined by special orders of the Privy Council for the several ports as places where foreign animals may be landed.

3. They are to be landed in such manner, within such times, and subject to such supervision and control as the Commissioners of Customs from time to time direct.

4. The owner, consignee, or other person landing them is either before landing them or within twelve hours after landing them, at his own expense, to mark them as follows :—in case of cattle, by clipping the hair off the end of the tail, and in such further manner (if any) as the Privy Council from time to time prescribe, and in case of other animals in such manner as the Privy Council from time to time prescribe.

5. They are not to be moved from the place of landing or lairs adjacent thereto, approved by the Privy Council, except as follows :

(*a.*) After the expiration of twelve hours from the time of landing or such other period as the Privy Council from time to time prescribe.

(*b.*) On a certificate from the veterinary inspector appointed in this behalf by the Commissioners of Customs certifying that they are free from contagious or infectious disease. A.D. 1869.

6. They are not to be moved alive out of the part of the port of landing from time to time defined in that behalf by the Privy Council.

7. Notwithstanding anything in these regulations, where a vessel comes into port having on board foreign animals maimed or injured on the voyage, the owner, consignee, or other person in charge thereof, or the master of the vessel, shall if directed by the veterinary inspector aforesaid, or may if he thinks fit, slaughter those animals or any of them immediately on their being landed; but the carcase, hide, skin, hair, wool, horn, hoof, or offal of any such animal or any part thereof is not to be moved from the place of landing, or some lair or slaughter-house adjacent thereto approved by the Privy Council, without a certificate from the veterinary inspector aforesaid certifying that it is not likely to introduce or spread contagious or infectious disease.

THE FIFTH SCHEDULE.

Maximum tolls, dues, and payments in Metropolitan Market after opening of Foreign Cattle Market.

Sheep, per head - - - -	Five farthings.
Beasts, per head - - -	Sixpence.
Calves, per head - - - -	Threepence.
Pigs, per head - - - -	Five farthings.

THE SIXTH SCHEDULE.

Rules respecting infected Places.

Part I.—Cattle Plague.

1. The rules of this part of this schedule are to have effect with respect to infected places as regards cattle plague. 1867, s. 21.

2. No animal is to be moved alive out of an infected place.

3. Any hide, skin, hair, wool, horn, hoof, or offal of any animal, or any part thereof, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed to issue licences in that behalf, certifying either that the thing moved has not formed part of an animal affected with cattle plague, or of an animal that has been in the same shed or stable, or in the same herd or flock, or in contact with an animal so affected, or that the thing moved has been disinfected.

4. The carcase of an animal, or a single portion of raw meat weighing more than twenty pounds, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed in that behalf,

A.D. 1869.

certifying that the carcase or meat moved is not the carcase or part of the carcase of an animal affected with cattle plague.

5. Any dung of animals, and any hay, straw, litter, or other thing commonly used for food of animals or otherwise for or about animals, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed in that behalf, certifying that the thing moved has not been in contact with or been used for or about any animal affected with cattle plague, or that it has been disinfected.

PART II.—SHEEP POX.

1. The rules of this part of this schedule are to have effect with respect to infected places as regards sheep pox.

2. No sheep is to be moved alive out of an infected place.

3. Any skin, wool, horn, or hoof of any sheep, or any part thereof, is not to be moved out of an infected place without a license signed by an officer appointed by the local authority to issue licences in that behalf certifying that the thing moved did not belong to any sheep forming part of a flock affected with sheep pox, or to any sheep that has been on a farm or place in which that disease existed.

3. Sheds and places used by sheep affected with sheep pox are forthwith after being so used to be cleansed and disinfected.

THE SEVENTH SCHEDULE.

Pleuro-Pneumonia Rules.

1. These rules are to have effect with respect to any field, stable, cow-shed, or other premises infected by pleuro-pneumonia.

2. Cattle affected with pleuro-pneumonia are not to be moved from such field, stable, cow-shed,or other premises, or from any land or building contiguous thereto in the same occupation, except for immediate slaughter, and according to regulations to be from time to time made by the local authority for insuring such slaughter.

3. Other cattle are not to be moved from such field, stable, cow-shed, or other premises, or from any lands or buildings contiguous thereto in the same occupation, except for immediate slaughter, without a licence signed by an officer of the local authority appointed to issue licences in that behalf certifying that the cattle moved are not affected with pleuro-pneumonia, and have not been in the same shed, or herd, or in contact with cattle so affected.

4. Sheds and places used by cattle affected with pleuro-pneumonia are forthwith after being so used to be cleansed and disinfected to the satisfaction of the local authority.

THE EIGHTH SCHEDULE.

A.D.1869.

Forms for Use by Inspector.

(1.)

1867, second schedule.

Declaration of Disease.

The Contagious Diseases (Animals) Act, 1869.

I, *A.B.* of , the inspector appointed by , being the local authority for the [county] of , hereby declare that I have this day found cattle plague [*or* pleuro-pneumonia *or* sheep-pox] to exist in the following field, stable, cowshed, or other premises, (that is to say,) [*here describe the place where the disease is found*].

Dated this day of 18 .

(Signed) *A.B.*

(2.)

Notice of Declaration to Occupiers.

The Contagious Diseases (Animals) Act, 1869.

To *C.D.* of

I, *A.B.* of , the inspector appointed by , being the local authority for the county] of , hereby give you notice, as the occupier of the following field, stable, cowshed, or other premises, (that is to say,) [*here describe the place where the disease is found,*] that I have made a declaration, a copy whereof is indorsed on this notice [*copy of declaration as filled up and signed to be indorsed*], and that in consequence thereof * the field, stable, cowshed, or other premises aforesaid, with all lands and buildings contiguous thereto in your occupation, have become and are an infected place, and that the same will continue to be an infected place * until the determination and declaration relative thereto of the local authority, as provided for in section of the above-mentioned Act, [*or in case of pleuro-pneumonia omit the part between the asterisks, and insert* the pleuro-pneumonia rules of this Act will have effect in relation to the field, stable, cowshed, or other premises aforesaid].

Dated this day of 18 .

(Signed) *A.B.*

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(3.)

Notice of Declaration to adjoining Occupiers.

The Contagious Diseases (Animals) Act, 1869.

To *E.F.* of

I, *A.B.* of , the inspector appointed by , being the local authority for the [county] of , hereby give you notice that I have made a declaration, a copy whereof is indorsed on this notice [*Copy of declaration as filled up and signed to be indorsed*], and that in consequence thereof the field, stable, cowshed, or other premises therein described, with all lands and buildings contiguous thereto in the same occupation, have become and are an infected place, and the same will continue to be an infected place until the determination and declaration relative thereto of the local authority, as provided for in section of the above-mentioned Act. And I hereby require you, as an occupier of lands and buildings adjoining to such infected place, part [*or* the whole] whereof lies within one mile of the boundaries of the infected place, to take notice that in consequence of the declaration aforesaid the rules of the said Act with respect to infected places will, until such determination and declaration of the local authority as aforesaid, apply and have effect to and in respect of the lands and buildings of which you are occupier as if the same were actually within the limits of the infected place.

Dated this day of 18 .

(Signed) *A.B.*

THE NINTH SCHEDULE.

Regulations respecting Audit.

1. The auditor shall be appointed by the Poor Law Board.

2. The auditor shall receive such remuneration as the Poor Law Board direct and the same shall be paid by the local authority, and shall, with the expenses of or incident to the audit, be deemed part of the expenditure of the local authority in compensation.

3. The audit shall be held at a place approved by the Poor Law Board and at the time fixed by the auditor, being as soon as may be after the application for the audit.

4. The auditor shall, fourteen days at least before holding the audit, give notice of the time and place for the holding thereof, by advertisement in a newspaper circulating in the district, and by a written notice delivered to or served on the clerk of the local authority.

5. The clerk of the local authority shall attend the audit, and produce to the auditor all books, bills, vouchers, and documents relating to the account.

6. Any ratepayer in the district may be present at the audit, and may object to the account.

7. When the auditor has completed his audit, he shall sign the account, and shall also sign and deliver to the Poor Law Board and to the local authority a certificate of the amount allowed.

8. Subject to the foregoing provisions, the Poor Law Board may from time to time make such regulations respecting the audit as they think fit.

THE TENTH SCHEDULE.

Local authorities, &c. in Scotland.

1866 (I.) Sched.

District of local authority.	Description of local authority of district set opposite name.	Local rate.	Clerk of local authority.
Counties, including any town or place which does not return or contribute to return a member to parliament.	The persons appointed as provided in part X. of this Act.	Rate appointed to be levied in part X. of this Act.	Clerk of supply.
Burghs which return or contribute to return a member to parliament.	The magistrates and town council.		Town clerk.

Contagious Diseases (Animals) (No. 2).

A

B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

To consolidate, amend, and make perpetual the Acts for preventing the introduction or spreading of Contagious or Infectious Diseases among Cattle and other animals in Great Britain.

(*Prepared and brought in by Mr. Dodson, Mr. William Edward Forster, and Mr. Secretary Bruce.*)

Ordered, by The House of Commons, *to be Printed,* 14 *July* 1869.

[Bill 212.]

Under 6 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT AND ON CONSIDERATION OF BILL AS AMENDED]

TO

Consolidate, amend, and make perpetual the Acts for preventing the introduction or spreading of Contagious or Infectious Diseases among Cattle and other animals in Great Britain. A.D. 1869.

WHEREAS it is expedient to confer on Her Majesty's most Honourable Privy Council power to take such measures as may appear from time to time necessary to prevent the introduction of contagious or infectious diseases among cattle, sheep, and other animals, by prohibiting or regulating the importation of foreign animals, and it is further expedient to provide against the spreading of such diseases in Great Britain, and to consolidate and amend the Acts relating thereto, and to make such other provisions as are contained in this Act.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Part I.—Preliminary.

1. This Act may be cited as The Contagious Diseases (Animals) Act, 1869. Short title.

2. This Act shall not extend to Ireland. Extent of Act.

3. This Act is divided into parts, as follows :— Division of Act into parts.

Part I.—Preliminary.
Part II.—Local authorities.
Part III.—Foreign animals.
Part IV.—Discovery and prevention of disease.
Part V.—Slaughter in cattle plague : compensation.
Part VI.—Orders of council and of local authorities.
Part VII.—Lands.
Part VIII.—Expenses of local authorities.
Part IX.—Offences and legal proceedings.
Part X.—Scotland.

A.D. 1869.

Repeal of Acts in schedule.

4. The Acts described in the first schedule to this Act are hereby repealed, but this repeal shall not extend to Ireland, or affect the past operation of any of those Acts, or affect any order of Her Majesty in Council made, or any order or regulation of the Privy Council, or of a local authority made, or any licence granted, or any committee or sub-committee constituted, or any appointment made, or any right, title, obligation, or liability accrued, or any rate or mortgage made, or the validity or invalidity of anything done or suffered under any of those Acts, before the passing of this Act; nor shall this repeal interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty or forfeiture incurred under, any of the Acts repealed by this Act, or any order or regulation made thereunder, or take away or abridge any protection or benefit conferred or secured by any of those Acts in relation to anything done thereunder before the passing of this Act; and, notwithstanding the repeal by this Act of any of those Acts, every local authority constituted thereby or thereunder shall (subject to any provision of this Act altering the local authority or the constitution thereof in any case) continue as if this Act had not been passed; and every such order, regulation, licence, committee, sub-committee, and appointment as aforesaid, shall continue and be as if this Act had not been passed, but so that the same may be revoked, altered, or otherwise dealt with under this Act as if the same had been made, granted, or constituted under this Act.

Definition, &c. of Privy Council. 1866 (II.) s. 3. 1867, s. 4.

5. In this Act the term "the Privy Council" means the lords and others of Her Majesty's most Honourable Privy Council.

All or any powers by this Act conferred on the Privy Council may be exercised by those lords and others or any two or more of them.

Powers by this Act conferred on the Privy Council may, as regards the making of orders affecting only specified ports, towns, or places, or parts thereof, and as regards the issuing and revocation of licences under any Order of Council, be exercised by the Lord President of the Council or one of Her Majesty's Principal Secretaries of State.

Interpretation of terms as to animals, &c. 1866 (I.) s. 3.

6. In this Act—

The term "cattle" means bulls, cows, oxen, heifers, and calves:

The term "animal" means, except where it is otherwise expressed, cattle, sheep, goats, and swine:

The term "foreign," as applied to cattle or animals, means brought from any place out of the United Kingdom:

The term "cattle plague" means the rinderpest, or disease commonly called the cattle plague:

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The term "contagious or infectious disease" includes cattle plague, pleuro-pneumonia, foot and mouth disease, sheep-pox, sheep-scab, and glanders, and any disease which the Privy Council from time to time by order declare to be a contagious or infectious disease for the purposes of this Act:

The term "person" includes a body corporate or unincorporate.

7. In this Act—

Definition of boroughs and other places. 1866 (I.) s. 3.

The term "borough" means a place which is for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth (chapter seventy-six), "to provide for the regulation of municipal corporations in "England and Wales," or which is a town or place having under any general or local Act of Parliament or otherwise a separate police establishment:

The term "county" does not include a county of a city or county of a town, but includes any riding, division, or parts of a county, having a separate commission of the peace:

The term "metropolis" includes all parishes and places in which the Metropolitan Board of Works have power to levy a main drainage rate.

For the purposes of this Act, the liberty of St. Albans, the liberty of the Isle of Ely, and the soke of Peterborough shall respectively be deemed separate counties, but all other liberties and franchises of counties shall be considered as forming part of the county by which they are surrounded, or if partly surrounded by two or more counties, then as forming part of that county with which they have the longest common boundary.

Every place that is not a borough, a county, or part of the metropolis as respectively defined in this Act, or is not separately mentioned in the second schedule to this Act, shall be deemed to form part of a county as defined in this Act to the county rate whereof it is assessed, or if it is not so assessed, then of the county within which it is situate.

Effect of schedules.

8. The schedules to this Act shall be construed and have effect as part of this Act.

Part II.—Local Authorities.

Local authorities, &c. in schedule. 1866 (I.) s. 4.

9. For the purposes of this Act, the respective districts, authorities, rates or funds, and officers described in the second schedule to this Act, shall be the district, the local authority, the local rate, and the clerk of the local authority.

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Local authority in city of London. 1866 (I.) s. 4.

10. Notwithstanding anything in this Act or the second schedule thereto, within the city of London and the liberties thereof the mayor, aldermen, and commons of the city of London shall be the local authority, and the town clerk shall be the clerk of the local authority, and the consolidated rate shall be the local rate, but the city of London and the liberties thereof shall nevertheless be deemed part of the metropolis for the purposes of the local rate described in the second schedule to this Act in relation to the metropolis.

Appointment of committees. 1866 (I.) s. 8. 1867, s. 7.

11. With respect to committees of a local authority, the following provisions shall have effect:—

(1.) A local authority shall form a committee or committees, and may delegate to any such committee all or any powers conferred on the local authority by this Act, except the power to make a rate:

(2.) A local authority may from time to time revoke or alter any power given by them to a committee:

(3.) A local authority may appoint and designate any such committee as their executive committee for the purposes of this Act:

(4.) Such an executive committee shall have all the powers of the local authority under this Act, except the power to make a rate, and may appoint a sub-committee or sub-committees, and delegate to them all or any powers of the executive committee, with or without conditions or restrictions, and from time to time revoke or alter any such delegation, and fix the quorum, and add to or diminish the number of the members, or otherwise alter the constitution of a sub-committee, and lay down rules for the guidance of a sub-committee, who shall act accordingly:

(5.) Proceedings of a committee or sub-committee shall not be invalidated by any vacancy in the committee or sub-committee, or, in case of a committee appointed by general or quarter sessions of a county, by the termination of the sessions at which they were appointed:

(6.) In case of the formation of two or more committees, they shall act according to rules laid down for their guidance by the local authority:

(7.) The regulations contained in the third schedule to this Act shall have effect with respect to committees and sub-committees.

Inspectors and Officers. A.D. 1869.

Appointment of inspectors and other officers by the local authority. 1866 (I.) s. 9. 1867, s. 8.

12. Every local authority shall from time to time appoint so many inspectors and other officers as appear to the local authority necessary for the execution of this Act, and shall assign them such duties and award them such salaries or allowances as the local authority think fit, and may at any time revoke any appointment so made, but so that every local authority shall at all times keep appointed at least one inspector.

Removal of inspectors. 1867, s. 8.

13. The Privy Council, if satisfied on inquiry that an inspector appointed by a local authority is incompetent, or has been guilty of misconduct or neglect in the discharge of his duty, may, if they think fit, direct his removal, and thereupon he shall cease to be an inspector for the purposes of this Act.

Reports to Privy Council, &c. 1867, s. 31.

14. Every local authority, and every inspector appointed by a local authority, shall make such reports to the Privy Council as the Privy Council from time to time require.

Part III.—Foreign Animals.

Power to define ports. 1867, s. 46.

15. The Privy Council may from time to time by order define the limits of ports for the purposes of this part of this Act.

Power to prohibit landing. 1848 (I.) s. 1.

16. The Privy Council may from time to time by order, in relation to foreign animals, or to any specified kind of foreign animals, or to foreign animals brought from any specified country or place, prohibit the landing thereof either generally, or in any specified port, or in any defined part thereof, or elsewhere than in some specified port or ports, or than in some defined part or parts thereof.

This section shall extend to horses and other animals not within the definition of animals in this Act.

Power to apply regulations in schedule to landing in specified cases. 1867, s. 46.

17. The Privy Council may from time to time by order apply to the landing, either generally, or with specified exceptions, or in some specified port, or in some defined part thereof, of foreign animals, or of any specified kind of foreign animals, or of foreign animals brought from any specified country or place, and to the movement and disposal thereof when landed, the regulations contained in the fourth schedule to this Act.

Power to vary regulations. 1867, s. 46.

18. The Privy Council may from time to time by order, in relation to foreign animals, or to any specified kind of foreign animals, or to foreign animals brought from any specified country or place, add to or vary the regulations contained in the fourth schedule to this Act.

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Provision respecting animals within port, &c.

19. Where the regulations contained in the fourth schedule to this Act (with or without addition or variation) are in operation in respect of a port or a defined part thereof, then all animals for the time being within that port or defined part shall, subject to any order of the Privy Council to the contrary, be deemed foreign animals, and those regulations shall apply thereto accordingly.

Power to impose quarantine. 1848 (I.) s. 2.

20. The Privy Council may from time to time by order make such regulations as they think expedient for subjecting to inspection or to quarantine foreign animals, or any specified kind of foreign animals, or foreign animals brought from any specified country or place.

This section shall extend to horses and other animals not within the definition of animals in this Act.

Punishment for wrongful landing, &c. 1848 (I.) s. 3.

21. If any person lands or attempts to land any foreign animal (including any horse or other animal not within the definition of animals in this Act) in contravention of any order of the Privy Council, the animal shall be forfeited in like manner as goods the importation whereof is prohibited by the Acts relating to the Customs are liable to be forfeited; and the person so offending shall be liable to such penalties as are imposed on persons importing or attempting to import goods the importation whereof is prohibited by the Acts relating to the Customs, without prejudice to any proceeding against him under this Act or any such order, but so that no person be punished twice for the same offence.

CLAUSE M. Return of diseases among foreign animals.

22. There shall be published in the London Gazette once in every month, under the direction of the Privy Council, a return of the number of foreign animals brought by sea to any port in Great Britain which on inspection on landing within the then last preceding month have been found to be affected with any contagious or infectious disease, specifying the disease and the ports from which and to which such animals are brought, and the mode in which such animals have been disposed of.

Provision of wharves, lairs, &c. 1867, s. 47.

23. A local authority may provide, erect, and fit up wharves, lairs, sheds, markets, houses, and places for the landing, reception, sale, and slaughter of foreign animals.

Incorporation of Markets, &c. Clauses Act.

24. There shall be incorporated with this part of this Act The Markets and Fairs Clauses Act, 1847; and for the purposes of the application and construction of that Act in conjunction with this part of this Act any place provided by a local authority under this part of this Act for the landing, reception, sale, or slaughter of foreign animals shall be deemed a market, and this part of this Act shall be deemed the special Act, and the prescribed limits shall be deemed to be the limits of the lands acquired for the purposes

of this part of this Act; and byelaws shall be approved by the Privy Council, which approval shall be sufficient, without any other approval or any allowance thereof (notice of application for such approval being nevertheless given, and proposed byelaws being published before application for approval, in like manner as under that Act notice of application for allowance and publication before that application are required to be made).

Charges for use of wharves, &c. 1867, s. 47.

25. A local authority may charge for the use of any wharf, lair, shed, market, house, or place provided by them under this part of this Act such sums as they from time to time by byelaw appoint.

Power to give as security charges, estates, &c.

26. A local authority, on exercising for the purposes of this part of this Act, the borrowing powers vested in them under this Act, may, if they think fit, give as security for repayment of money borrowed with interest (either together with the local rate, if any, or separately therefrom) the charges which they are authorized to make under this part of this Act, and any estates, revenues, or funds belonging to them and not otherwise appropriated by law.

Separate account and application of money received.

27. All money received by a local authority from charges made by them under this part of this Act shall be carried to a separate account, and shall be applied in payment of interest on money borrowed by them for the purposes of this part of this Act, and in repayment of the principal thereof, and subject thereto towards discharge of expenses incurred by them in the execution of this Act.

Clause A. Special provisions respecting metropolis.

28. With respect to the metropolis, notwithstanding anything in this Act or in the second schedule thereto, the following provisions shall have effect:

(1.) The mayor, aldermen, and commons of the city of London shall, for the purposes of this part of this Act, be exclusively the local authority in and for the metropolis:

(2.) The mayor, aldermen, and commons, on exercising for the purposes of this part of this Act the borrowing powers vested in a local authority under this Act, may borrow on the credit of the property on the credit whereof they are authorized to borrow by The Metropolitan Market Act, 1865, and the money so borrowed may be secured in the manner and subject and according to the provisions in that Act authorized and contained:

(3.) All money received by the mayor, aldermen, and commons from charges made by them under this part of this Act shall (subject to the application thereof as in this part of this Act directed in payment of interest on and in repayment of principal of money borrowed for the pur-

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poses of this part of this Act) be applied in repayment of the principal of money borrowed by them under The Metropolitan Market Acts, 1857 and 1865, and subject thereto in discharge of expenses incurred by them in the execution of this part of this Act:

(4.) From and after the opening for public use of a market provided by the mayor, aldermen, and commons under this part of this Act to the satisfaction of the Privy Council (declared by order), the maximum tolls, dues, and payments that may be taken under The Metropolitan Market Act, 1857, in respect of the animals mentioned in the fifth schedule to this Act, shall be the sums in that schedule specified in lieu of those specified in schedule A. to that Act.

CLAUSE B. Provision on failure of mayor, &c. to provide market.

29. Provided that if the mayor, aldermen, and commons of the city of London do not before the first day of January one thousand eight hundred and seventy-two provide and open for public use a market for the purposes of this part of this Act to the satisfaction of the Privy Council (declared by order), then on and after that day the following consequences shall ensue:

(1.) The provision of this part of this Act making the mayor, aldermen, and commons exclusively for the purposes of this part of this Act the local authority in and for the metropolis shall cease to operate:

(2.) The enactment in section fifteen of The Metropolitan Market Act, 1857, that no new market for the sale of cattle or horses shall be opened in the cities of London or Westminster, or the liberties thereof, or in the borough of Southwark, or at any place distant less than seven miles in a straight line from Saint Paul's Cathedral in the city of London, shall not prevent any local authority or person from establishing a market for the purposes of this part of this Act in or at any place named or defined in that section.

Continuance of defined part where market, &c. provided.

30. Where a local authority, with the approval of the Privy Council, have before or after the passing of this Act provided, erected, and fitted up within a part of a port defined by the Privy Council as a place where foreign animals may be landed any wharf, lair, shed, market, house, or place for the landing, reception, sale, or slaughter of foreign animals, it shall not be lawful for the Privy Council to revoke the order containing the definition of the part or parts of that port at which foreign animals may be landed, or

to alter it so as to exclude therefrom any part of the site of such wharf, lair, shed, market, house, or place, except with the consent of the local authority.

Part IV.—Discovery and Prevention of Disease.

Inspector to proceed on information. 1867, s. 9.

31. An inspector of a local authority, on receiving information of the supposed existence of cattle plague, pleuro-pneumonia, or sheep-pox, or having reasonable ground to suspect that any of those diseases exists in any place within his district, shall proceed to that place with all practicable speed, and execute and discharge the powers and duties by law conferred and imposed on him as inspector.

Power of entry for inspector, &c. 1866 (I.) s. 10.

32. An inspector or other officer of a local authority authorized to act in the execution of this Act may at any time enter any field, stable, cow-shed, or other premises within his district, where he has reasonable grounds for supposing that any animal affected with cattle plague, pleuro-pneumonia, or sheep-pox is to be found, for the purpose of executing this Act, but shall, if required, state in writing the grounds on which he has so entered.

If any person refuses admission to such inspector or officer acting under this section, he shall be deemed guilty of an offence against this Act.

Evidence of disease. 1866 (I.) s. 9.

33. The certificate of an inspector of a local authority to the effect that an animal within his district is affected with cattle plague, pleuro-pneumonia, or sheep-pox, shall for the purposes of this Act be conclusive evidence in all courts of justice and elsewhere of the matter certified.

Infected Places: Cattle Plague and Sheep-Pox.

Provisional declaration of infected place by inspector. 1867, s. 11.

34. Where an inspector finds cattle plague or sheep-pox to exist within his district, he shall forthwith make a declaration thereof under his hand, and shall deliver a notice under his hand of such declaration to the occupier of the field, stable, cowshed, or other premises where the disease is found, and thereupon the same, with all lands and buildings contiguous thereto in the same occupation, shall become and be an infected place, and the same shall continue to be an infected place until the determination and declaration of the local authority relative thereto in this Act provided for.

Determination and declaration

35. Where an inspector makes such a declaration of the existence of cattle plague or sheep-pox, he shall with all practicable speed

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of local authority. 1867, s. 12.

send a copy thereof to the Privy Council, and deliver the declaration to the local authority, who shall forthwith inquire into the correctness thereof, and if it appears to them that cattle plague or sheep-pox existed as declared by the inspector, they shall so determine and declare, and shall prescribe the limits of the infected place; but if it appears to them that cattle plague or sheep-pox did not exist as declared by the inspector, and the same is certified to them in writing by one or more duly qualified veterinary surgeon or surgeons, employed by them in that behalf, they shall so determine and declare, and thereupon the place comprised in the inspector's declaration, or affected thereby, shall cease to be an infected place.

Declaration of infected place by local authority or Council. 1867, s. 13.

36. A local authority with respect to any place within their district, and the Privy Council with respect to any place in Great Britain, may from time to time by order declare any field, stable, cowshed, or other premises in which cattle plague or sheep-pox exists at the date of the order or has existed within seven days before that date, with or without a further area, to be from and after a time specified in the order an infected place.

Extent of area on declaration by local authority. 1867, s. 14.

37. The area of an infected place may in all cases of a declaration by a local authority include, with the field, stable, cowshed, or other premises in which cattle plague or sheep-pox has been found to exist, all lands and buildings lying contiguous thereto, being in the same occupation, and within the district of the local authority, and also (except in the metropolis) an area comprised within one mile from the boundaries of those lands in every direction, but no more.

Extension of area into district of other authority. 1867, s. 16.

38. A local authority may include in the area of an infected place any adjoining part of the district of another local authority, with the previous consent of that authority in writing signed by their clerk, but not otherwise.

Extent of infected place under declaration by council. 1867, s. 14.

39. The area of an infected place may in all cases of a declaration by the Privy Council include, with the field, stable, cowshed, or other premises in which cattle plague or sheep-pox has been found to exist, such an area as to the Privy Council seems requisite.

Area of infected places in metropolis. 1867, s. 19.

40. With respect to the metropolis the Privy Council may from time to time by order extend the limits of an infected place beyond the boundaries of the field, stable, cowshed, farm, or premises where cattle plague is declared or found to exist.

Description of infected place.

41. The area of an infected place may in any case be described by reference to a map deposited at some specified place, or by reference to townships, parishes, farms, or otherwise.

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42. An order of a local authority declaring a place to be an infected place shall be published by the local authority by notices posted in and near the infected place, and in such other manner (if any) as they think expedient. Notice of declaration. 1867, s. 18.

An order of the Privy Council declaring a place to be an infected place shall be published in like manner by and at the expense of any local authority to whom the same is sent by the Privy Council for publication.

Any want of or defect or irregularity in publication shall not invalidate any order.

43. An order of a local authority or of the Privy Council declaring a place to be an infected place shall be conclusive evidence in all courts of justice and elsewhere of the existence of disease and other matters on which the order proceeds. Order evidence of disease. 1866 (II.) s. 8.

44. The rules set forth in the sixth schedule to this Act shall have effect with respect to infected places (which rules are in this Act referred to as the rules of this Act with respect to infected places). Rules in schedule. 1867, s. 21.

45. If any animal, hide, skin, hair, wool, horn, hoof, offal, carcase, meat, dung, hay, straw, litter, or other thing is moved in contravention of the rules of this Act with respect to infected places, every person moving the same, or causing the same to be moved, shall be deemed guilty of an offence against this Act. Offences as to infected places. 1867, s. 22.

46. The rules of this Act with respect to infected places shall not restrict the moving of any animal or thing by railway through an infected place, such animal or thing not being stopped within the infected place. Exception for railways. 1867, s. 23.

47. The Privy Council may from time to time by order make rules with respect to infected places not being inconsistent with the rules set forth in the sixth schedule to this Act; and with respect to the metropolis, the Privy Council may also from time to time, if they think it expedient, vary the rules set forth in that schedule; and all rules and variations of rules so made shall be deemed rules of this Act with respect to infected places. Power to Council to make rules as to infected places. 1867, ss. 21, 24.

48. Every local authority and the police of every county, borough, town, and place shall, within their respective districts, enforce and execute the provisions of this Act and of any order of the local authority or Privy Council thereunder relative to infected places, and do or cause to be done all things from time to time necessary or expedient for securing, as far as may be, the effectual isolation of infected places in respect of the movement of animals and things. Duties of local authorities, &c. 1867, s. 25.

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Authority of constable. 1867, s. 26.

49. Any constable may proceed as follows:

(1.) He may apprehend any person found committing an offence against the rules of this Act with respect to infected places, and he shall take any person so apprehended, as soon as conveniently may be, before a justice of the peace to be examined and dealt with according to law; and a person so apprehended shall not be detained in custody by any constable without the order of a justice longer than is necessary for bringing him before a justice, or than twenty-four hours at longest:

(2.) He may require that any animal or thing moved out of an infected place in contravention of those rules be forthwith taken back within the limits of that place, and may enforce and execute such requisition.

Discontinuance of declaration of infected places. 1867, s. 27.

50. The local authority by whom an infected place is declared may, at any time after the expiration of twenty-eight days from the disappearance of cattle plague or sheep-pox (as the case may be) in that place, by order declare the place to be free from cattle plague or sheep-pox (as the case may be).

The Privy Council may at any time by order declare any place to be free from cattle plague or sheep-pox.

Thereupon, as from the time specified in this behalf in the order of the local authority or Privy Council, the place shall cease to be an infected place as regards cattle plague or sheep-pox (as the case may be).

Report to Council. 1867, s. 28.

51. The clerk of a local authority declaring a place to be an infected place, or declaring a place to be free from cattle plague or sheep-pox, shall forthwith report by post to the Privy Council the fact of such declaration having been made.

Effect of orders of Council. 1867, s. 20.

52. An order of the Privy Council relative to an infected place shall supersede any order of a local authority inconsistent with it.

Restriction on movement, &c. near infected places. 1867, s. 29.

53. Where, under this Act, an inspector makes a declaration which constitutes a place an infected place, he may also, if the circumstances of the case appear to him so to require, deliver a notice under his hand of such declaration to the occupiers of all lands and buildings adjoining thereto, any part whereof respectively lies within one mile of the boundaries of the infected place in any direction, and thereupon the rules of this Act with respect to infected places shall, until the determination and declaration of the local authority relative thereto in this Act provided for, apply and have effect to and in respect of those lands and buildings as if the same were actually within the limits of the infected place.

Pleuro-pneumonia.

Provisional declaration as to pleuro-pneumonia by inspector.

54. Where an inspector finds pleuro-pneumonia to exist within his district, he shall forthwith make a declaration thereof under his hand, and shall deliver a notice under his hand of such declaration to the occupier of the field, stable, cow-shed, or other premises where the disease is found; and thereupon the rules set forth in the seventh schedule to this Act (in this Act called the pleuro-pneumonia rules of this Act) shall have effect in relation to such field, stable, cow-shed, or other premises until the determination and declaration of the local authority relative thereto in this Act provided for.

Determination and declaration by local authority as to pleuro-pneumonia.

55. Where an inspector makes a declaration of the existence of pleuro-pneumonia, he shall with all practicable speed send a copy thereof to the Privy Council, and deliver the declaration to the local authority, who shall inquire into the correctness thereof; and if it appears to them that pleuro-pneumonia existed as declared by the inspector, they shall so determine and declare, and thereupon the pleuro-pneumonia rules of this Act shall continue to apply to the field, stable, cow-shed, or other premises to which the declaration relates; but if in any such case it appears to the local authority that pleuro-pneumonia did not exist as declared by the inspector, or that a fresh case of pleuro-pneumonia has not occurred for thirty days in such field, stable, cow-shed, or other premises, then the local authority shall so determine and declare, and the pleuro-pneumonia rules of this Act shall cease to operate in relation thereto.

Miscellaneous.

Forms in schedule. 1867, s. 53.

56. The forms given in the eighth schedule to this Act, or forms to the like effect, with such variations as circumstances require, may be used by an inspector for the purposes of this part of this Act, and when used shall be deemed sufficient.

Exposure for sale, transport by railway, &c. of diseased animals.

57. If any person exposes for sale in a market or fair or other public place where horses or animals are commonly exposed for sale, or exposes for sale in any sale-yard, whether public or private, or sends or causes to be carried on a railway or on a canal, river, or other inland navigation or on a coasting vessel, or carries, leads, or drives or causes to be carried, led, or driven on a highway or thoroughfare, any horse or animal affected with a contagious or infectious disease, he shall be deemed guilty of an offence against this Act, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of the same being so

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affected, and that he could not with reasonable diligence have obtained such knowledge.

1848 (II.) s. 1. 1853, s. 1. 1867, s. 49.

Where any horse or animal so affected is exposed or otherwise dealt with in contravention of this section, an inspector of the local authority or any officer of the local authority authorized to act in execution of this Act may seize the same, and cause it, if affected with glanders, cattle plague, or sheep-pox, to be slaughtered, and if affected with any other contagious or infectious disease to be removed to some convenient and isolated place, and to be there kept for such time as they think expedient; and the local authority may recover the expenses of the execution by them of this section from the owner of the horse or animal, or from the consignor or consignee thereof, who may recover the same from the owner.

In case of a conviction for an offence under this section no compensation shall be payable in respect of any animal slaughtered under this section.

Notwithstanding anything in this section, the Privy Council may from time to time, by order, make such further or other provision as they think expedient respecting animals becoming affected with foot and mouth disease while being carried, led, or driven as aforesaid, and any such order shall be deemed part of this section.

Turning out of diseased animals on uninclosed lands, &c. 1848 (II.) s. 2. 1853, s. 1.

58. If any person places or keeps on any common or uninclosed land or in any field or other place insufficiently fenced, or on the side of a highway, any horse or animal affected with a contagious or infectious disease, he shall be deemed guilty of an offence against this Act, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of the same being so affected, and that he could not with reasonable diligence have obtained such knowledge.

Trespass on land. 1866 (II.) s. 11.

59. Where a person having cattle in his possession or keeping within the district of a local authority wherein cattle plague exists affixes at the entrance to a building or inclosed place in or on which such cattle are kept a notice forbidding persons to enter into or on that building or place without his permission, then, if any person not having a right of entry or way into, on, or over that building or place, enters into, on, or over the same or any part thereof, in contravention of the notice, he shall for every such offence be liable to a penalty not exceeding five pounds.

Burial of diseased animals. 1866 (I.) s. 13.

60. Every local authority shall cause every horse or animal that has died of glanders, cattle plague, or sheep-pox, or has been slaughtered in consequence of being affected with glanders, cattle plague, or sheep-pox, within their district, to be buried as soon as possible in its skin in some proper place, and to be covered with

a sufficient quantity of quicklime or other disinfectant, and with not less than six feet of earth, or to be destroyed under inspection of the local authority in such mode as shall be approved by the Privy Council. A.D. 1869.

It shall not be lawful for any person, except with the licence of the Privy Council, to dig up or cause to be dug up the carcase or any part of the carcase of any horse or animal so buried.

Purification of sheds, &c. of diseased animals. 1866 (I.) s. 14.

61. A local authority shall cause the yard, shed, stable, field, or other premises in which any horse or animal affected with glanders or cattle plague or sheep-pox has been kept while so affected, or has died or been slaughtered, to be thoroughly cleansed and disinfected, and all hay, straw, litter, dung, or other article that has been in contact with or used about any such horse or animal to be burnt or otherwise destroyed.

No fresh animal shall be admitted into any yard, shed, stable, field, or other premises in which any animal affected with cattle plague or sheep-pox has been kept while so affected, or has died or been slaughtered, until the expiration of thirty days after the cleansing and disinfecting of such premises in pursuance of this Act.

Any such hay, straw, litter, dung, or other article shall not be removed from the premises in which any horse or animal affected with glanders or cattle plague has been, except for the purpose of being destroyed and with a licence of an inspector specifying the place at which it is to be destroyed, nor shall it be removed out of the district of the local authority without the consent in writing of the local authority into whose district it is moved. If any such thing is removed in contravention of this Act, the occupier of the premises from which it is removed and the person removing it shall each be deemed guilty of an offence against this Act.

A local authority shall direct the disinfecting of the clothes of and the use of due precautions against the spreading of contagion by inspectors and others in contact with animals affected with cattle plague.

Steamboat and railway companies &c. to disinfect carriages, boats, &c. 1867, s. 48.

62. Every steamboat, railway, and other company, and every person carrying animals for hire to or in Great Britain, shall thoroughly cleanse and disinfect, in such manner as the Privy Council from time to time by order direct, all steamers, vessels, boats, pens, carriages, trucks, horse-boxes, and vehicles used by such company or person for the carrying of animals.

If any company or person on any occasion fails to comply with the requisitions of any such order, such company or person

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shall on every such occasion be deemed guilty of an offence against this Act.

An inspector of a local authority, or any officer of a local authority authorized to execute this Act, may at all times enter on board any steamer, vessel, or boat in respect whereof he has reasonable grounds for supposing that any company or person has failed to comply with the requisitions of any such order, and on premises where he has reasonable grounds for supposing that any pen, carriage, truck, horse-box, or vehicle in respect whereof any company or person has on any occasion so failed is to be found, and if any company or person refuses admission to an inspector or other officer acting under this section, such company or person shall be deemed guilty of an offence against this Act.

Regulations for disinfecting. 1867, s. 50.

63. The Privy Council may from time to time by order give directions respecting modes of disinfecting, and anything disinfected in accordance with the provisions of such order, or in accordance with any process of disinfection approved by the Privy Council, shall be deemed disinfected within this Act, but not otherwise.

Water and food on railways.

64. Every railway company shall make provision, to the satisfaction of the Privy Council, for the supply of water and food, or either of them, at such stations as the Privy Council from time to time, by general or specific description, direct, to animals carried or about to be or having been carried, by the company, the same to be supplied on the request in writing of the consignor of any such animal, or on the request of any person in charge of any such animal, and the company may make in respect of such supply such reasonable charges if any, as the Privy Council by order approve, in addition to such charges as they are for the time being authorized to make in respect of the carriage of animals; and the amount of such additional charges accrued due in respect of any animal shall be a debt from the consignor and from the consignee thereof to the company, and shall be recoverable by the company from either of them by proceedings in any court of competent jurisdiction, and the company shall have a lien for the amount thereof on the animal in respect of which the same accrued due, and on any other animal at any time consigned on the railway of the company by the same person.

If any company on any occasion fails to comply with the requirements of this section, they shall, on every such occasion, be deemed guilty of an offence against this Act. If in the case of any animal such a request as aforesaid is not made so that the animal remains without a supply of water for thirty consecutive

hours, the consignor and the person in charge of the animal shall each be deemed guilty of an offence against this Act. A.D. 1869.

Return of cases of disease among imported foreign animals.

65. There shall be published once in every month, under the direction of the Privy Council, in the London Gazette, a return of the number of foreign animals brought by sea into any port in Great Britain which, upon inspection on landing within the last preceding month, have been found to be suffering from any infectious or contagious disorder, specifying the nature of the disorder, the port of entry at which, and the country from which such animals have arrived.

Part V.—Slaughter in Cattle Plague; Compensation.

Slaughter in cattle plague. 1866, (I.) s. 12.

66. Every local authority shall cause all animals affected with cattle plague within their district to be slaughtered.

Slaughter of cattle herded with diseased animals. 1866, (I.) s. 15.

67. A local authority may, if they think fit, cause to be slaughtered any animal that has been in the same shed or stable, or in the same herd or flock, or in contact with any animal affected with cattle plague within their district.

Slaughter to ascertain disease. 1867, s. 15.

68. Where an animal is affected with disease suspected to be cattle plague, the local authority may cause the animal to be slaughtered in order to ascertain the nature of the disease.

Compensation on slaughter. 1866, (I.) s. 12. 1867, s. 15.

69. Where an animal affected with cattle plague, or affected with disease suspected to be cattle plague, is slaughtered, in pursuance of this Act, the local authority (except as otherwise provided in this Act) shall, by way of compensation for the animal, pay to the owner thereof such sum, not exceeding twenty pounds and not exceeding one half of the value of the animal immediately before it was affected with cattle plague, as to the local authority seems fit.

Compensation for slaughter of cattle herded with diseased animals. 1866, (I.) s. 15.

70. Where a local authority causes an animal to be slaughtered on account of it having been in the same shed or stable, or in the same herd or flock, or in contact with an animal affected with cattle plague, the owner of the animal so slaughtered may either dispose of the carcase on his own account, with a licence from some officer appointed in that behalf by the local authority, or may require the local authority to dispose of the same, in which latter case the local authority shall pay to the owner thereof, by way of compensation, such sum, not exceeding thirty pounds, as may equal three fourths of the value of the animal slaughtered.

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Power to ascertain value of slaughtered animals. 1866, (I.) s. 16.

71. A local authority may require the value of any animal slaughtered under this Act to be ascertained by officers of the local authority or by arbitration, and generally may impose conditions as to evidence of the slaughter and value of the animals slaughtered.

Restrictions on compensation. 1866, (I.) s. 17. 1867, s. 32.

72. A local authority may, if they think fit, withhold compensation in respect of any animal slaughtered, where the owner or the person having the charge thereof has in their judgment been guilty, in relation to such animal, of any act in contravention of this Act, or of any order, regulation, or licence of the Privy Council or of a local authority, or has, in relation to such animal, failed to comply with the provisions of this Act, or of any such order, regulation, or licence in respect of the giving of notice of disease or in any other respect, and may, if they think fit, withhold compensation in respect of a foreign animal slaughtered on account of it being affected with cattle plague, or with disease suspected to be cattle plague, if it appears to them that the animal was so affected at the time of the landing thereof.

Amount of insurance to be recovered. 1866, (I.) s. 20.

73. Where an animal has been slaughtered in pursuance of this Act, the owner thereof shall not be entitled to recover in respect of the insurance thereof any sum which, together with the payment which he receives for the same under this Act, would exceed the sum which he would have been entitled to receive in respect of the insurance.

Reservation for experimental treatment. 1867, s. 15.

74. The Privy Council may, notwithstanding anything in this Act, reserve for experimental treatment any animal ordered to be slaughtered under this Act, but compensation shall be payable in respect thereof as if this section had not been enacted.

CLAUSE F. Record respecting slaughter.

75. Every local authority shall keep, in such manner and form as the Privy Council from time to time by order direct or approve, a record relative to proceedings under this part of this Act, stating the date of any order for slaughter, and the execution of the order, or the reservation of the animal for experimental treatment (as the case may be), and other proper particulars; and such record shall be evidence if any question arises concerning an order for the slaughter of any animal, or concerning compensation in respect thereof.

Part VI.—Orders of Council and Local Authorities.

Power for Council to make orders. 1848, (II.) s. 4. 1866, (II.) s. 4.

76. The Privy Council may from time to time make such orders as they think expedient for all or any of the following purposes:

For insuring for animals brought by sea to ports in Great Britain a proper supply of food and water during the passage and on landing:

For protecting such animals from unnecessary suffering during the passage and on landing:

For prohibiting or regulating the movement of animals, and the removal of dead animals or parts thereof, and of hay, straw, litter, dung, and other things likely to spread contagious or infectious diseases among animals:

For requiring the cleansing and disinfecting of yards, sheds, stables, fields, and other premises:

For regulating the disposal of animals dying while affected with a contagious or infectious disease:

For requiring notice of the appearance of any such disease among animals:

For prohibiting or regulating the holding of markets, fairs, exhibitions, or sales of animals:

And generally any orders whatsoever which they think it expedient to make for the better execution of this Act, or for the purpose of in any manner preventing the introduction or spreading of contagious or infectious disease among animals (whether any such orders are of the same kind as the kinds enumerated in this section or not), and may in any such order direct or authorize the slaughtering of animals that are affected with any contagious or infectious disease, or that have been in contact with animals so affected; and may in any such order direct or authorize the local authority to pay compensation for any animals so slaughtered, and may in any such order impose penalties for offences against the same, not exceeding the sum of twenty pounds for any such offence, and so that in every such order provision be made that a penalty less than the maximum may be ordered to be paid; and this section shall extend to horses and all ruminating animals not within the definition of animals in this Act.

Every such order shall have the like force and effect as if it had been enacted by this Act.

Privy Council inspectors. 1866 (I.) s. 9.

77. A person for the time being appointed by the Privy Council an inspector for the purposes of this Act shall have for and throughout Great Britain all such powers, authorities, and privileges as an

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inspector of a local authority has within or in relation to his district, and a direction of the Privy Council shall in the case of an inspector appointed by them be deemed equivalent to a direction of a local authority in the case of an inspector appointed by them.

Provisions for towns, &c. 1867, s. 30.

78. The Privy Council may from time to time, by order, declare that such of the provisions of this Act, and of any order of the Privy Council under it, as relate to the metropolis, or any of those provisions, shall also extend and apply to any town, city, parish, or place specified in the order, and the same shall extend to such town, city, parish, or place accordingly; and the Privy Council may at any time revoke or from time to time vary any such order.

Regulation, &c. of landing of hay, &c. 1848 (I.) s. 2.

79. The Privy Council may from time to time by order make such regulations as they think expedient for prohibiting or regulating the landing of any hay, straw, fodder, or other article brought from any place out of the United Kingdom, whereby it appears to the Privy Council contagion or infection may be conveyed to animals, or for causing the same to be destroyed if landed.

If any person lands or attempts to land any hay, straw, fodder, or other article in contravention of any such order, the same shall be forfeited in like manner as goods the importation whereof is prohibited by the Acts relating to the Customs are liable to be forfeited, and the person so offending shall be liable to such penalties as are imposed on persons importing or attempting to import goods the importation whereof is prohibited by the Acts relating to the Customs, without prejudice to any proceeding against him under this Act or any such order, but so that no person be punished twice for the same offence.

Directions of Council and local authority. 1866, (II.) s. 4.

80. The Privy Council may require a local authority to carry into effect any order of the Privy Council under this Act, and may authorize a local authority to make any regulations for the purpose of preventing the spreading of contagious or infectious diseases among animals, subject to such conditions as the Privy Council impose, and the local authority may by any such regulation impose such penalties as the Privy Council are by this Act authorized to impose by order.

Expenses of execution of orders. 1867, s. 36.

81. The expenses incurred by a local authority in executing any order of the Privy Council under this Act shall be defrayed by the local authority out of such local rates or funds as such order directs, and subject to or in the absence of any such direction shall be deemed expenses incurred by the local authority in pursuance of this Act.

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Publication of orders, &c. 1848 (II.) s. 5. 1866 (II.) s. 7.

82. Every order of the Privy Council under this Act shall be published in the London Gazette, save that where an order of the Privy Council affects only a particular port, town, or place, or part thereof, specified in the order, or declares a place to be an infected place, or to be free from cattle plague or from sheep-pox, or is in the nature of a licence under an order of Council, or of a revocation of such a licence, then the insertion in the London Gazette of a notice of the issuing thereof shall be for all purposes sufficient publication thereof.

Any order of the Privy Council under this Act shall be published, by and at the expense of any local authority to whom the same is sent by the Privy Council for publication, in some newspaper circulating in the district of the local authority, or in such other manner as the Privy Council direct.

Any order or regulation made by a local authority shall be published by them at their own expense in such manner as the Privy Council direct, and, subject to or in the absence of any such direction, in such manner as the local authority think sufficient and proper to ensure publicity.

Instrument may be in print, &c. 1867, s. 52.

83. Any order, licence, regulation, or other instrument made under this Act, or under any order of the Privy Council thereunder, may be in writing or print, or partly in writing and partly in print.

Stamp duty and fees not to be paid. 1866, (I.) s. 9. 1866, (II.) s. 9.

84. No stamp duty shall be payable on, and no fee or other charge shall be demanded or made for, any appointment, certificate, declaration, or licence under this Act, or any order or regulation made thereunder.

Evidence of orders. 1866 (II.) s. 8.

85. An order or regulation made or issued by a local authority under this Act, or under any order of the Privy Council, may be proved as follows:—

By the production of a copy of a newspaper containing a copy of such order or regulation; or

By the production of a printed copy of such order or regulation, purporting to be certified to be a true copy by the clerk of the peace where the authority are justices in general or quarter sessions assembled, or by the town clerk or other officer performing the duties of a town clerk in the case of an authority having a town clerk or other officer as aforesaid, or by such other officer as the Privy Council prescribe:

And any such order or regulation shall, until the contrary is proved, be deemed to have been duly made and issued at the time at which it bears date.

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Recovery of penalties.

86. Penalties and forfeitures shall be recoverable and applicable under an order of the Privy Council, or an order or regulation of a local authority, as penalties and forfeitures under this Act are recoverable and applicable.

PART VII.—LANDS.

Acquisition of land by local authority.
1866 (I.) s. 26.

87. A local authority may purchase or take on lease or at a rent land for the purpose of burying therein animals dying of or slaughtered on account of any contagious or infectious disease, or for the purpose of providing wharves, lairs, sheds, markets, houses, and places for the landing, reception, sale, and slaughter of foreign animals, or for any other purpose of this Act, and may sell, exchange, or dispose of lands acquired by them under this Act, but not required to be retained for the purposes thereof, carrying the money produced thereby to the credit of the local rate.

Conveyances &c., of land.

88. Land purchased or taken on lease or at a rent under this Act by a local authority, not being a body corporate, shall be assured or demised to the local authority and their successors, in trust for the purposes of this Act, and shall be accepted, taken, and held by them as a body corporate.

Purchase under provisional order.
21 & 22 Vict. c. 98. s. 75.

89. The regulations contained in section seventy-five of The Local Government Act, 1858, shall be observed with respect to the purchase of land by a local authority for the purposes of this Act, and shall apply and have effect as if the local authority were a local board acting under the Local Government Act, and the purposes of this Act were purposes of that Act, save that the advertisements and notices requisite under that section may be published and served in any two consecutive months instead of only in the months therein specified, and that the local rate be substituted for the rates therein mentioned; and the powers conferred by this section may be exercised by a local authority with respect to land either within or without their district.

PART VIII.—EXPENSES OF LOCAL AUTHORITIES.

Expenses for compensation.
1867, s. 33.

90. The expenditure of a local authority in compensation for animals slaughtered under Part V. of this Act, or in respect of principal of or interest on money borrowed in pursuance of this Act, shall be defrayed out of the local rate, or out of a separate rate to be levied in all respects as the local rate, and included under the term local rate.

Any person who is not the owner of the premises in respect of which he is rated under this section to the local rate may deduct from the growing rent due to the owner of such premises one half of the rate payable by him for the purposes of this section, and every owner shall allow such deduction accordingly.

The owner for the purposes of this section shall be the person for the time being entitled to receive the rackrent of the premises in respect of which the rate is made on his own account, or who would be entitled to receive the same if such premises were let at a rackrent, including under the term rackrent any rent which is not less than two thirds of the net annual value of the premises out of which the rent issues.

Every local authority shall have power, notwithstanding any limit in any Act of Parliament, to levy a local rate to the amount required for the purposes of this Act, but every rate or increase of rate levied under this section shall in all precepts for the levy thereof be described as a separate rate or separate item of rate, and when collected from the individual ratepayers shall be collected as a separate rate or specified as a separate item of rate.

Every order of a board of guardians for contribution of moneys, out of which any such expenditure as in this section mentioned is payable, shall state the amount in the pound of contribution required for such expenditure; and the overseers, on the receipt given to any ratepayer for poor rate, shall specify the amount (if any) collected in respect of such expenditure.

General expenses.

91. Expenses incurred by a local authority in pursuance of this Act, other than their expenditure in compensation for animals slaughtered under Part V. of this Act, or in respect of principal of or interest on money borrowed in pursuance of this Act, shall be defrayed out of the local rate.

Validity of rates under Act.

92. The existence of any order or precept for the making or collection under any Act repealed by this Act of any rate remaining uncollected wholly or in part at the passing of this Act shall not affect the validity of any rate made under this Act.

Remission of rate in certain cases.

93. Where before the twentieth day of February one thousand eight hundred and sixty-six any person suffered so great a loss of cattle by cattle plague as to entitle him, after the passing of this Act, in the opinion of the local authority, to a remission in whole or in part of the amount due from him in respect of the local rate, such remission may be granted by the local authority.

Application of balance unappropriated.

94. Where at the passing of this Act a local authority have in their hands an unappropriated balance of a local rate levied under any Act repealed by this Act, they may, if they think fit,

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apply any part of such balance in compensation for cattle slaughtered between the passing of "The Cattle Diseases Prevention Act, 1866," and the appointment of inspectors under that Act, by direction of a person whom the owner of such cattle had reasonable ground to believe to be the authorized inspector for the execution of the Act; or they may carry such balance or any part thereof to the credit of the ordinary account of the local rate, to be applied for any of the purposes for which the local rate when levied under any Act other than an Act repealed by this Act is applicable.

Variation of forms of precepts and orders. 1866 (III.) s. 6.

95. All precepts, orders for contribution, and forms of poor rate shall, where necessary, be varied in such manner as may be required for carrying into effect this Act.

Advance of moneys by treasurer of local authority. Ibid. s. 7.

96. The treasurer of a local authority may, if directed by them, advance out of any moneys for the time being in his hands any sums required for payment of expenses incurred by them in pursuance of this Act.

Saving of statutes applicable to rates leviable for expenses. Ibid. s. 8.

97. Where the local rate is a county rate or borough rate, or any other such rate as is mentioned in the second schedule to this Act, all the provisions of the statutes applicable to the making, levying, and collecting of a county rate, borough rate, or such other rate shall apply, notwithstanding that the whole of such rate, or any part thereof, is applicable to the payment of the expenditure of a local authority in pursuance of this Act in compensation for animals slaughtered, or in respect of principal of or interest on money borrowed in pursuance of this Act.

Error in statement not to vitiate precept, &c. Ibid. s. 9.

98. An error in the statement of the amount of expenses in any precept, warrant, contribution, order, or receipt issued or given under this Act shall not invalidate such precept, warrant, contribution, order, or receipt; but any person aggrieved by the error may appeal to the justices in petty sessions, and the justices may rectify the error, and award to the appellant compensation for any loss he may have sustained thereby, the amount of such compensation to be paid to the appellant, and shall be deemed expenses of the local authority under this Act.

Recouping of charges on boroughs out of county rates.

99. Notwithstanding anything in this Act, the local authority of each borough situate within a county and assessed to the county rate thereof shall be recouped the proportionate amount contributed by the borough to the expenses incurred by the local authority of the county in pursuance of this Act (including expenditure in compensation for animals slaughtered, or in respect of principal of or interest on money borrowed in pursuance of this Act), so that the burden of those expenses shall be borne wholly by the county, and not as to any part thereof by any borough situate within the county.

Borrowing.

Mortgage of rates in certain cases. 1866 (I.) s. 22.

100. Where the rate levied or required for the purposes of this Act exceeds or would exceed sixpence in the pound, a local authority may, for the purposes of defraying any costs, charges, and expenses under this Act, borrow at interest on the credit of the local rate any sums of money necessary for defraying such costs, charges, and expenses; and for the purpose of securing the repayment of any sums of money so borrowed, together with such interest as aforesaid, the local authority may mortgage the local rate for any period not exceeding seven years.

Where the rate levied or required for the purposes of this Act exceeds or would exceed ninepence in the pound, the Commissioners of Her Majesty's Treasury may, on application from the local authority, extend the term to any term not exceeding fourteen years, and the local authority may mortgage the rate accordingly.

Provided that where the local authority borrow for any purpose of this Act on any security other than the local rate (whether together with the local rate, if any, or separately therefrom) the limitations in this section contained respecting the amount of rate and the term of years shall not operate.

The provisions of The Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners, shall be incorporated with this section, the local authority being deemed to be the commissioners, and any mortgagee or assignee may enforce payment of his principal and interest by appointment of a receiver.

The Public Works Loan Commissioners may, with the approval of the Commissioners of Her Majesty's Treasury, advance to a local authority, on the security of the local rate, without any further security, any sums of money to be applied for the purposes of this Act, and to be repaid, with interest, within any period as aforesaid.

Further power where expenses exceed one shilling in pound. 1866 (III.) s. 4.

101. Where the estimated amount of the sum required to be levied for payment of the expenditure of a local authority in pursuance of this Act (including expenditure incurred in the payment of money borrowed or of interest thereon) exceeds the sum that would be raised by the levying of a rate of one shilling in the pound on the rateable value of the property assessed to the local rate, the local authority may borrow from the Public Works Loan Commissioners, and the Public Works Loan Commissioners may, out of the balance for the time being unapplied of any money by any Act already passed authorized to be issued for the purposes of loans under any Act repealed by this Act, or out of any other money for the time being authorized to be issued for the purpose of

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loans under this section, lend to them such sums as may be required, subject to the following conditions:

1. Every such loan shall be made with the sanction of the Commissioners of Her Majesty's Treasury:
2. Interest shall be at the rate of three and a quarter per centum per annum:
3. Repayment of the loan shall be made by such number of equal annual instalments, not exceeding thirty, as the Commissioners of Her Majesty's Treasury direct:
4. The Commissioners of Her Majesty's Treasury may, if they think fit, authorize the postponement, for a period not exceeding two years, of any payment of principal or interest becoming due within the first three years:
5. Repayment of the loan and interest shall be secured by a mortgage of the local rate, and it shall not be incumbent on the Public Works Loan Commissioners to require any other security:
6. The local authority shall have power to levy and shall levy rates requisite for the purpose of repaying the loan with interest:
7. The sanction of the Commissioners of Her Majesty's Treasury to the loan shall be conclusive evidence that it is authorized by this Act; and no objection shall be made by any ratepayer to the validity of any mortgage for the loan, or to the application of the proceeds of the local rate to the payment of the principal or interest of the loan:
8. The Commissioners of Her Majesty's Treasury may, by agreement with the local authority borrowing, commute into an equivalent annuity terminable at the time fixed for the liquidation of the annual instalments aforesaid, the payments secured by the mortgage or any portion of such payments.

Provision for existing loans.

102. Where a local authority have borrowed money on the security of a mortgage of the local rate, under any Act repealed by this Act, then (except as otherwise provided in this Act in respect to the county of Chester), notwithstanding any repeal in this Act, or any alteration made by this Act in the definition of a local authority or local rate, or any other thing in this Act contained, the local rate mortgaged shall continue to be the security for the money borrowed, as if this Act had not been passed; and in relation to the money so borrowed, the local authority which borrowed such money, and the local rate on which the same is charged, shall continue to be the local authority and the local rate under the Acts repealed by this Act, as if this Act had not

been passed; and all provisions of Part II. of The Cattle Diseases Prevention Act, 1866, relative to expenses, and all the provisions of The Cattle Diseases Prevention Amendment Act, 1866, and all other provisions of any Act repealed by this Act relative to expenses of local authorities, rating, remission of rates, and borrowing, and matters connected therewith respectively, shall, in relation to the money so borrowed, and to the rate charged therewith, continue to operate as if this Act had not been passed.

Provisions for Cheshire as to repayment of existing loan, &c.

103. With respect to the county of Chester the following provisions shall have effect:

(1.) As far as regards the expenditure of the local authority of the county of Chester in respect of principal of or interest on money borrowed in pursuance of any Act repealed by this Act, and any matter consequent on or relative to that expenditure (including the remission of rates), the foregoing provisions of this part of this Act shall not apply to that county;

(2.) That expenditure shall be defrayed out of the county rate for the county of Chester, or out of any money applicable under any Act of Parliament or otherwise for the public charges or uses of that county, or partly out of one and partly out of the other; such county rate to be assessed, levied, and collected in the manner prescribed by law for the assessment, levying, and collection of county rates, independently of this Act or of any Act repealed by this Act;

(3.) In lieu of any provision authorizing deduction by tenant from landlord of half of the local rate, any person who is not the owner of the premises in the county of Chester in respect of which he is rated to the poor rate may, in each year until the first day of November one thousand eight hundred and ninety-six, in which he duly pays his poor rate, deduct from the growing rent due to the owner of such premises a sum equal to one penny in the pound on the annual rateable value of such premises, and every owner shall allow such deduction accordingly; and the owner, for the purposes of this section, shall be the person defined as such in this part of this Act;

(4.) The local authority for the county of Chester shall entertain and decide on applications from ratepayers to whom, if this section had not been inserted in this Act, remission in respect of the local rate might have been granted, and may on such applications grant to the applicants, or any of

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them, such sum or sums of money (if any) out of the county rate as the local authority think reasonable, regard being had to the extent of loss in the cases of the several applicants;

(5.) The local authority of each borough situate within the county of Chester, and assessed to the county rate thereof, shall, by means of repayment out of the county rate, or by means of differential rates, or partly in the one way and partly in the other, be recouped the proportionate amount contributed by the borough to any money granted as aforesaid, so that the burden of the expenditure incurred by the local authority of the county in respect of such grants shall be borne wholly by the county, and not as to any part thereof by any borough situate within the county;

but nothing in this section shall prejudicially affect the mortgage security of the Public Works Loan Commissioners for money advanced to the local authority of the county of Chester under any Act repealed by this Act; and the local authority of that county shall from time to time levy such rates as are under this section applicable, and as are for the time being requisite (either wholly or in conjunction with such other money as in this section mentioned), for the purpose of repaying with interest the money advanced on such mortgage security according to the terms thereof.

Part IX.—Offences and Legal Proceedings.

Penalty for disobedience to Act or order. 1866 (I.) s. 27. 1867, s. 55.

104. If any person acts in contravention of or is guilty of any offence against this Act, or any order or regulation made by the Privy Council or a local authority in pursuance of this Act, he shall for every such offence (except as otherwise provided in this Act, and except where a less penalty is provided in any such order or regulation,) be liable to a penalty not exceeding twenty pounds.

Where any such offence is committed with respect to more than four animals a penalty not exceeding five pounds for each animal may be imposed instead of the penalty of twenty pounds.

Where any such offence is committed in relation to offal, dung, hay, straw, litter, or other thing, a further penalty not exceeding ten pounds may be imposed in respect of every half ton in weight of such offal or other thing after the first half ton.

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Penalties on use of expired licences, &c. 1867, s. 54. 1866, (III.) s. 10.

105. If any person does any of the following things he shall be deemed guilty of an offence against this Act:

(1.) If he does anything for which a licence is requisite under this Act, or any order of the Privy Council thereunder, without having obtained a licence:

(2.) If where such a licence is requisite, having obtained a licence in that behalf, he does the thing licensed after the licence has expired:

(3.) If he uses or offers or attempts to use as such a licence an instrument not being a complete licence, or an instrument untruly purporting or appearing to be a licence, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such incompleteness or untruth, and that he could not with reasonable diligence have obtained such knowledge:

(4.) If, with intent to evade any provision of this Act or of any order of the Privy Council thereunder, he fabricates or alters, or offers or utters, knowing the same to be fabricated or altered, any licence, declaration, certificate, or instrument made or issued or purporting to be made or issued under or for any purpose of this Act or any such order:

(5.) If, for the purpose of obtaining any licence, certificate, or instrument under or for the purposes of any such provision, he makes a declaration false in any material particular, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

(6.) If he obtains or endeavours to obtain any such licence, certificate, or instrument by means of any false pretence, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

(7.) If he grants or issues any such licence, certificate, or instrument, being false in any material particular, unless he shows to the satisfaction of the justices before whom he is charged that he did not know of such falsity, and that he could not with reasonable diligence have obtained such knowledge:

And in any such case he shall be liable, on conviction, in the discretion of the justices, to be imprisoned for any term not exceeding

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three months, with or without hard labour, in lieu of the pecuniary penalty to which he is liable under this Act.

Punishment for obstructing inspectors, &c. 1848 (II.) s. 7. 1866 (I.) s. 10.

106. If any person obstructs or impedes an inspector or other officer acting in execution of this Act or of any order of the Privy Council thereunder, he, and every person aiding and assisting him therein, shall be guilty of an offence against this Act, and the inspector or other officer, or any person whom he calls to his assistance, may seize the offender and detain him until he can be conveniently taken before a justice, to be dealt with according to law.

Application of penalties. 1866 (II.) s. 5.

107. Notwithstanding anything in any Act relating to the metropolitan police, or to municipal corporations, or in any other Act, one half of every penalty or forfeiture recovered under this Act shall be paid to the person who sues or proceeds for the same, and the other half shall be applied as if this section had not been enacted.

Appearance of companies, &c. 1866 (I.) s. 30.

108. In proceedings before justices under this Act, any railway company or other body corporate may appear by any member of their board of directors or council, or by any officer authorized in writing under the hand of any director or member of the council of the company or body.

Appeal. 1866 (I.) s. 31.

109. If any party feels aggrieved by the dismissal of his complaint by justices, or by any determination or adjudication of justices with respect to any penalty or forfeiture under this Act, he may appeal therefrom, subject to the conditions and regulations following:

1. The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days and not more than four months after the decision of the justices:
2. The appellant shall, within three days after the cause of appeal has arisen, give notice to the clerk of the petty sessional division for which the justices act whose decision is appealed from of his intention to appeal, and of the grounds thereof:
3. The appellant shall immediately after such notice enter into a recognizance, before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court:
4. The court may adjourn the appeal, and may make such order thereon as they think just:

But nothing in this section respecting appeals shall affect any enactment relative to appeals in cases of summary convictions or

adjudications in the city of London or the metropolitan police district. A.D. 1869.

110. For the purposes of proceedings under this Act, or any order of the Privy Council or order or regulation of a local authority thereunder, every offence against this Act or any such order or regulation shall be deemed to have been committed, and every cause of complaint under this Act or any such order or regulation shall be deemed to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the person charged or complained against happens to be. Jurisdiction for trial of offences, &c. 1867, s. 56.

Protection of persons in execution of Act.

111. An action or proceeding shall not lie against any person acting or intending to act under the authority or in the execution or in pursuance of this Act for any alleged irregularity or trespass or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding, and the name and residence of the intending plaintiff or prosecutor, and of his attorney or agent in the matter,) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within four months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within four months next after the doing of such damage has ceased; and any such action shall be laid and tried in the county or place where the cause of action arose, and not elsewhere. Actions against persons executing Act not to be brought without notice, &c. Ibid. s. 57.

112. In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting or intending to act under the authority or in the execution or in pursuance of this Act, and may give all special matter in evidence. Plea in action. Ibid. s. 58.

113. On the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action not stated in his notice. Evidence in action. 1867, s. 59.

114. The plaintiff in any such action shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made the defendant may, by leave of the court in which the action is brought, at any time pay into the court such sum of money as he Tender of amends, &c. Ibid. s. 60.

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thinks fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on the payment of money into court in an ordinary action.

Costs of defendant. Ibid. s. 61.

115. If in any such action the plaintiff does not succeed in obtaining judgment, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review; and though a verdict is given for the plaintiff in the action, he shall not have costs against the defendant unless the judge before whom the trial is had certifies his approval of the action and verdict.

Costs, &c. of defence to actions, &c. under direction of local authority. Ibid. s. 62.

116. Where any such action or proceeding is defended under the direction or with the approval of the local authority, the costs, charges, and expenses incurred in and about the same by or on behalf of the defendant and payable by him, and any damages or other money recovered against or payable by him in or in consequence of such action or proceeding, shall be deemed expenses incurred by the local authority in pursuance of this Act, and shall be defrayed accordingly.

PART X.—SCOTLAND.

Application of part to Scotland.

117. The provisions of this part of this Act shall extend to Scotland only, and shall have effect in substitution for the provisions of the preceding parts of this Act, when so expressed or implied, and otherwise shall have effect in addition to the provisions thereof.

Local authority, &c. 1866, (I.) s. 4.

118. For the purposes of this Act the respective districts, authorities, rate, and officers described in that behalf in the tenth schedule to this Act shall be the district, the local authority, the local rate, and the clerk of the local authority.

Appointment of local authority in counties. 1866, (I.) s. 5. 1867, s. 6.

119. The commissioners of supply in every county shall meet, and nominate not fewer than four or more than fifteen of their number to act on the county board for the purposes of this Act, and shall intimate to the lord lieutenant of the county and the convener of the county the number and names of the persons so appointed.

The clerk of supply in each county shall call a meeting of the occupiers of agricultural subjects in such county, valued in the valuation roll in force for the time at one hundred pounds and upwards, and of occupiers of such subjects of which they are owners valued in the valuation roll at fifty pounds and under one hundred pounds; and such meeting shall be called by advertisement in one

or more newspapers circulating in the county for the same day as, or for a day not later than eight days after, the meeting of the commissioners of supply; and such advertisement shall specify the time and place of such meeting, and the clerk of supply shall be clerk to such meeting; and the meeting shall nominate from among such occupiers and owners and occupiers a number of persons equal to those nominated by the commissioners of supply, and the meeting shall also name a convener, who shall intimate the names of the persons so nominated to the convener of the county, and shall have power to call similar meetings by such advertisement, when occasion shall require; and in the event of such election not being intimated to the convener of the county within fifteen days from the date of such meeting, it shall be lawful to the Lord Lieutenant to nominate from among such occupiers, or owners and occupiers, such number of persons, and intimate the same to the convener of the county.

Any such nomination and intimation made for the purposes of any Act repealed by this Act shall continue to have effect for the purposes of this Act.

Vacancies from time to time happening by death, resignation, or otherwise among the members of the local authority shall be filled up by the authority and in the manner by and in which the members vacating office were respectively nominated.

The persons nominated as in this section provided, and the lord lieutenant of the county, the convener of the county, and the sheriff of the county (or in his absence such one of his substitutes within the county as he directs by writing under his hand), for the time being, shall constitute the local authority; five shall be a quorum of the local authority.

As far as not otherwise provided by this Act, such local authority shall have all the powers conferred on the local authority by this Act, and shall have power to elect a chairman, specify a quorum, and make all regulations necessary for carrying the purposes of this Act into effect.

The chairman of the local authority, and in default of him the convener of the county, and in default of him any three members of the local authority, may at any time call a meeting of the local authority, to be held at such time and place as he or they may fix, and the local authority may adjourn as they from time to time think fit.

Purchase under provisional order.

120. Part VII. of this Act shall have effect as if section ninety of "The Public Health (Scotland) Act, 1867," were thereby

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applied, instead of section seventy-five of "The Local Government Act, 1858," and in the said section ninety the local authority and local rate under this Act shall be substituted for the local authority and the assessment therein mentioned.

Mode of levying and recovering assessments.
1866 (I.) s. 21.
1867, s. 35.

121. The local authority in a county shall from time to time give notice to the commissioners of supply of the sums necessary to be provided under the provisions of this Act by means of the local rate; and the amount so intimated shall be assessed and collected by the commissioners of supply according to the real rent of lands and heritages as appearing on the valuation roll in force for the year, who shall pay over the same to the local authority.

The local authority in a burgh shall in like manner assess and collect the amount required to be raised by local rate within such burgh.

All such assessments shall be payable either by the tenant, who shall be entitled to deduct one half thereof from the rent payable by him to the proprietor, or by the proprietor (and that, notwithstanding anything in this Act, either with or without relief against the tenant for one half of the assessment), according as it is declared in the resolutions of the local authority imposing the assessment.

All the provisions in regard to the recovery of assessments in the Act of the session of the twentieth and twenty-first years of Her Majesty (chapter seventy-two), "to render more effectual the "police in counties and burghs in Scotland," are hereby incorporated in this Act as far as the same are not inconsistent with the provisions of this Act.

Validity of rates under Act.

122. The existence of any order or precept for the making or collection under any Act repealed by this Act of any rate remaining uncollected wholly or in part at the passing of this Act, shall not affect the validity of any rate made after the passing of this Act.

Certificate of copy for evidence.
1866 (II.) s. 8.

123. In the case of a county, a printed copy of an order or regulation of the local authority, purporting to be certified to be a true copy by the clerk of supply, shall be received in proof.

Jurisdiction under 27 & 28 Vict. c. 53.

124. The terms "justice" and "justices" shall include any magistrate having jurisdiction under The Summary Procedure Act, 1864.

1866 (II.) s. 6.
Local authority may apply to

125. In the event of any person refusing or delaying to comply with the order of a local authority, the local authority may give information thereof to the procurator fiscal of the county or burgh, who may apply to the sheriff for a warrant to carry such order

into effect, and such warrant may be executed by the officers of court in the usual way. procurator fiscal. 1866 (I.) s. 28.

126. All judicial powers given to justices and quarter sessions, or to magistrates in boroughs, by this Act, may also be exercised by the sheriff of the county or the sheriff substitute. Sheriff to have concurrent jurisdiction. 1866 (I.) s. 29.

127. Notice of appeal and of the grounds thereof shall be given to the clerk of the peace of the county. Notice of appeal. 1866 (I.) s. 31.

128. For the purposes of this Act the burgh of Maxwelltown shall be held to be a part of the stewartry of Kirkcudbright and not of the parliamentary burgh of Dumfries. Burgh of Maxwelltown.

THE FIRST SCHEDULE.

Acts repealed.

38 Geo. 3. c. 65.—An Act for preventing the depasturing of forests, commons, and open fields with sheep or lambs infected with the scab or mange in that part of Great Britain called England.

11 & 12 Vict. c. 105.—An Act to prohibit the importation of sheep, cattle, or other animals, for the purpose of preventing the introduction of contagious or infectious disorders.

11 & 12 Vict. c. 107.—An Act to prevent, until the first day of September one thousand eight hundred and fifty, and to the end of the then session of Parliament, the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

16 & 17 Vict. c. 62.—An Act to extend and continue an Act of the twelfth year of Her present Majesty, to prevent the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

29 & 30 Vict. c. 2.—The Cattle Diseases Prevention Act, 1866.

29 & 30 Vict. c. 15.—An Act to amend the Act of the eleventh and twelfth years of Her present Majesty, chapter one hundred and seven, to prevent the spreading of contagious or infectious disorders among sheep, cattle, and other animals.

29 & 30 Vict. c. 110. — The Cattle Diseases Prevention Amendment Act, 1866.

30 & 31 Vict. c. 125.—The Contagious Diseases (Animals) Act, 1867.

THE SECOND SCHEDULE.

1866 (I.) Schedule.

Local authorities, &c. in England.

District of local authority.	Description of local authority of district set opposite name.	Local rate.	Clerk of local authority.
Counties except the metropolis.	The justices in general or quarter sessions assembled.	The county rate, or rate in the nature of a county rate.	Clerk of the peace.
The metropolis (subject to the provisions of this Act respecting the city of London and the liberties thereof).	The metropolitan board of works.	Rate or fund applicable to the payment of the general expenses of the board.	The clerk of the metropolitan board of works.
Boroughs - -	The mayor, aldermen, and burgesses acting by the council.	The borough fund or borough rate.	Town clerk.
	Where the borough is not subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, the commissioners or other body maintaining the police therein.	The rate applicable by the commissioners or other body to the maintenance of the police.	Clerk of the commissioners or other body.
District of local board of Oxford.	The local board -	Rate leviable by the local board.	Clerk of the local board.

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THE THIRD SCHEDULE.

Regulations respecting Committees and Sub-Committees.

1866, (I.) s. 8. 1867, s. 5.

1. A committee formed by a local authority may consist wholly of members of the local authority, or partly thereof, and partly of such other persons being rated occupiers in the district and qualified in such other manner as the local authority determine.

2. A committee of a local authority and a sub-committee of an executive committee may elect a chairman of their meetings.

3. If no chairman is elected, or if the chairman elected is not present at the time appointed for the holding of a meeting, the members then present shall choose one of their number to be chairman of the meeting.

4. A committee or sub-committee may meet and adjourn as they think proper.

5. Every question at a meeting of a committee or sub-committee shall be determined by a majority of votes of the members present and voting on the question, and in case of an equal division of votes the chairman shall have a second or casting vote.

THE FOURTH SCHEDULE.

Regulations that may be applied to landing, movement, and disposal of foreign animals.

1. These regulations are to have effect with respect to those foreign animals to which they are from time to time applied by order of the Privy Council.

2. Those foreign animals are to be landed only at parts of ports defined by special orders of the Privy Council for the several ports as places where foreign animals may be landed.

3. They are to be landed in such manner, within such times, and subject to such supervision and control as the Commissioners of Customs from time to time direct.

4. The owner, consignee, or other person landing them is either before landing them or within twelve hours after landing them, at his own expense, to mark them as follows :—in case of cattle, by clipping the hair off the end of the tail, and in such further manner (if any) as the Privy Council from time to time prescribe, and in case of other animals in such manner as the Privy Council from time to time prescribe.

5. They are not to be moved from the place of landing or lairs adjacent thereto, approved by the Privy Council, except as follows :

(*a.*) After the expiration of twelve hours from the time of landing or such other period as the Privy Council from time to time prescribe.

(*b.*) On a certificate from the veterinary inspector appointed in this behalf by the Commissioners of Customs certifying that they are free from contagious or infectious disease. A.D. 1869.

6. They are not to be moved alive out of the part of the port of landing from time to time defined in that behalf by the Privy Council.

7. Notwithstanding anything in these regulations, where a vessel comes into port having on board foreign animals maimed or injured on the voyage, the owner, consignee, or other person in charge thereof, or the master of the vessel, shall if directed by the veterinary inspector aforesaid, or may if he thinks fit, slaughter those animals or any of them immediately on their being landed; but the carcase, hide, skin, hair, wool, horn, hoof, or offal of any such animal or any part thereof is not to be moved from the place of landing, or some lair or slaughter-house adjacent thereto approved by the Privy Council, without a certificate from the veterinary inspector aforesaid certifying that it is not likely to introduce or spread contagious or infectious disease.

THE FIFTH SCHEDULE.

Maximum tolls, dues, and payments in Metropolitan Market after opening of Foreign Cattle Market.

Sheep, per head	Five farthings.
Beasts, per head	Sixpence.
Calves, per head	Threepence.
Pigs, per head	Five farthings.

THE SIXTH SCHEDULE.

Rules respecting infected Places.

Part I.—Cattle Plague.

1. The rules of this part of this schedule are to have effect with respect to infected places as regards cattle plague. 1867, s. 21.

2. No animal is to be moved alive out of an infected place.

3. Any hide, skin, hair, wool, horn, hoof, or offal of any animal, or any part thereof, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed to issue licences in that behalf, certifying either that the thing moved has not formed part of an animal affected with cattle plague, or of an animal that has been in the same shed or stable, or in the same herd or flock, or in contact with an animal so affected, or that the thing moved has been disinfected.

4. The carcase of an animal, or a single portion of raw meat weighing more than twenty pounds, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed in that behalf,

A.D. 1869.

certifying that the carcase or meat moved is not the carcase or part of the carcase of an animal affected with cattle plague.

5. Any dung of animals, and any hay, straw, litter, or other thing commonly used for food of animals or otherwise for or about animals, is not to be moved out of an infected place without a licence signed by an officer of the local authority appointed in that behalf, certifying that the thing moved has not been in contact with or been used for or about any animal affected with cattle plague, or that it has been disinfected.

PART II.—SHEEP POX.

1. The rules of this part of this schedule are to have effect with respect to infected places as regards sheep pox.

2. No sheep is to be moved alive out of an infected place.

3. Any skin, wool, horn, or hoof of any sheep, or any part thereof, is not to be moved out of an infected place without a licence signed by an officer appointed by the local authority to issue licences in that behalf certifying that the thing moved did not belong to any sheep forming part of a flock affected with sheep pox, or to any sheep that has been on a farm or place in which that disease existed.

3. Sheds and places used by sheep affected with sheep pox are forthwith after being so used to be cleansed and disinfected.

THE SEVENTH SCHEDULE.

Pleuro-Pneumonia Rules.

1. These rules are to have effect with respect to any field, stable, cow-shed, or other premises infected by pleuro-pneumonia.

2. Cattle affected with pleuro-pneumonia are not to be moved from such field, stable, cow-shed, or other premises, or from any land or building contiguous thereto in the same occupation, except for immediate slaughter, and according to regulations to be from time to time made by the local authority for insuring such slaughter.

3. Other cattle are not to be moved from such field, stable, cow-shed, or other premises, or from any lands or buildings contiguous thereto in the same occupation, except for immediate slaughter, without a licence signed by an officer of the local authority appointed to issue licences in that behalf certifying that the cattle moved are not affected with pleuro-pneumonia, and have not been in the same shed, or herd, or in contact with cattle so affected.

4. Sheds and places used by cattle affected with pleuro-pneumonia are forthwith after being so used to be cleansed and disinfected to the satisfaction of the local authority.

A.D. 1869.

THE EIGHTH SCHEDULE.

Forms for Use by Inspector.

(1.)

1867, second schedule.

Declaration of Disease.

The Contagious Diseases (Animals) Act, 1869.

I, *A.B.* of , the inspector appointed by , being the local authority for the [county] of , hereby declare that I have this day found cattle plague [*or* pleuro-pneumonia *or* sheep-pox] to exist in the following field, stable, cowshed, or other premises, (that is to say,) [*here describe the place where the disease is found*].

Dated this day of 18 .

(Signed) *A.B.*

(2.)

Notice of Declaration to Occupiers.

The Contagious Diseases (Animals) Act, 1869.

To *C.D.* of

I, *A.B.* of , the inspector appointed by , being the local authority for the county] of , hereby give you notice, as the occupier of the following field, stable, cowshed, or other premises, (that is to say,) [*here describe the place where the disease is found,*] that I have made a declaration, a copy whereof is indorsed on this notice [*copy of declaration as filled up and signed to be indorsed*], and that in consequence thereof * the field, stable, cowshed, or other premises aforesaid, with all lands and buildings contiguous thereto in your occupation, have become and are an infected place, and that the same will continue to be an infected place * until the determination and declaration relative thereto of the local authority, as provided for in section of the above-mentioned Act, [*or in case of pleuro-pneumonia omit the part between the asterisks, and insert* the pleuro-pneumonia rules of this Act will have effect in relation to the field, stable, cowshed, or other premises aforesaid].

Dated this day of 18 .

(Signed) *A.B.*

A.D. 1869.

(3.)

Notice of Declaration to adjoining Occupiers.

The Contagious Diseases (Animals) Act, 1869.

To *E.F.* of

I, *A.B.* of , the inspector appointed by , being the local authority for the [county] of , hereby give you notice that I have made a declaration, a copy whereof is indorsed on this notice [*Copy of declaration as filled up and signed to be indorsed*], and that in consequence thereof the field, stable, cowshed, or other premises therein described, with all lands and buildings contiguous thereto in the same occupation, have become and are an infected place, and the same will continue to be an infected place until the determination and declaration relative thereto of the local authority, as provided for in section of the above-mentioned Act. And I hereby require you, as an occupier of lands and buildings adjoining to such infected place, part [*or* the whole] whereof lies within one mile of the boundaries of the infected place, to take notice that in consequence of the declaration aforesaid the rules of the said Act with respect to infected places will, until such determination and declaration of the local authority as aforesaid, apply and have effect to and in respect of the lands and buildings of which you are occupier as if the same were actually within the limits of the infected place.

Dated this day of 18 .

(Signed) *A.B.*

THE NINTH SCHEDULE.

Regulations respecting Audit.

1. The auditor shall be appointed by the Poor Law Board.

2. The auditor shall receive such remuneration as the Poor Law Board direct and the same shall be paid by the local authority, and shall, with the expenses of or incident to the audit, be deemed part of the expenditure of the local authority in compensation.

3. The audit shall be held at a place approved by the Poor Law Board and at the time fixed by the auditor, being as soon as may be after the application for the audit.

4. The auditor shall, fourteen days at least before holding the audit, give notice of the time and place for the holding thereof, by advertisement in a newspaper circulating in the district, and by a written notice delivered to or served on the clerk of the local authority.

5. The clerk of the local authority shall attend the audit, and produce to the auditor all books, bills, vouchers, and documents relating to the account.

6. Any ratepayer in the district may be present at the audit, and may object to the account.

7. When the auditor has completed his audit, he shall sign the account, and shall also sign and deliver to the Poor Law Board and to the local authority a certificate of the amount allowed.

8. Subject to the foregoing provisions, the Poor Law Board may from time to time make such regulations respecting the audit as they think fit.

THE TENTH SCHEDULE.

Local authorities, &c. in Scotland.

1866 (L) Sched.

District of local authority.	Description of local authority of district set opposite name.	Local rate.	Clerk of local authority.
Counties, including any town or place which does not return or contribute to return a member to parliament.	The persons appointed as provided in part X. of this Act.	Rate appointed to be levied in part X. of this Act.	Clerk of supply.
Burghs which return or contribute to return a member to parliament.	The magistrates and town council.		Town clerk.

Contagious Diseases (Animals) (No. 2).

A

B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT, AND ON CONSIDERATION OF BILL AS AMENDED]

To consolidate, amend, and make perpetual the Acts for preventing the introduction or spreading of Contagious or Infectious Diseases among Cattle and other animals in Great Britain.

(*Prepared and brought in by Mr. Dodson, Mr. William Edward Forster, and Mr. Secretary Bruce.*)

Ordered, by The House of Commons, *to be Printed,* 20 *July* 1869.

[Bill 226.]

Under 6 *oz.*

LORDS AMENDMENTS

TO THE

CONTAGIOUS DISEASES (ANIMALS) BILL.

Note.—*The Page and Line refer to the Bill* (217.) *as first printed by the Lords.*

Page 1.

Line 3, after ("introduction") insert ("into Great Britain")
Line 7, after ("amend") insert ("and make perpetual")
Line 10, after ("it") insert ("therefore")

Page 3.

Line 5, after ("Act") insert ("The term "railway company" "includes a company or person working a railway under "lease or otherwise:")
Line 19, after ("have") insert ("or had")

Page 5.

Line 22, after ("animals") insert ("or any specified kind "thereof")
Line 33, after ("animals") insert ("or any specified kind "thereof")
Line 35, after ("Act") insert ("or any of them")
Line 38, after ("animals") insert ("or any specified kind "thereof")

Page 6.

Line 2, after ("Act") insert ("or any of them")
Line 6, leave out ("those") and insert ("the same")
Line 8, after ("expedient") insert ("for imposing conditions "on the landing of or")
Line 10, after ("animals") insert ("or any specified kind "thereof")

[Bill 257.]

Page 8.

Line 41, after ("Council") insert ("(as long as importation "of foreign animals at that port is allowed, but under re- "striction,)"); and in same line leave out ("order con- "taining the")

Page 9.

At end of clause 30 add ("and if any railway company have "provided, erected, or fitted up any such wharves, lairs, "sheds, markets, houses, or places, the same may with the "approval of the Privy Council be used for the purposes "of this Act.")

Line 10, leave out ("law") and insert ("or under this Act")

Page 10.

Line 38, after ("plague") insert ("or sheep-pox")

Page 13.

Lines 28 and 29, leave out ("or forms to the like effect")

Line 31, leave out ("when used shall be deemed sufficient") and insert ("a declaration of disease under this part of this "Act shall not be deemed a certificate of the inspector for "any purpose of this Act")

Line 34, after ("private") insert ("or places in a lair or other "place adjacent to or connected with a market or fair, or "where horses or animals are commonly placed before "exposure for sale")

Page 14.

Line 10, leave out ("they") and insert ("the local authority")

Line 20, after ("disease") insert ("or any other contagious "or infectious disease, not being cattle plague, pleuro- "pneumonia, sheep-pox, or glanders"), and after ("while") insert ("exposed or placed or")

Page 15.

Line 3, leave out ("shall be approved by")

Line 4, after ("Council") insert ("from time to time by order "direct or approve")

Page 16.

Line 20, after ("make") insert ("a")

Line 21, leave out ("for the supply")

Line 23, leave out ("to") and insert ("for")

Line 24, leave out ("by") and insert ("on the railway of"); and in same line leave out ("the same to") and insert ("and "such water or food, or either of them, shall")

Page 16.

Line 25, after ("supplied") insert ("to any such animal by "the company carrying it")

Lines 25 and 26, leave out ("of any such animal") and insert ("thereof")

Line 26, leave out ("of any such animal") and insert ("thereof")

Line 27, after ("company") insert ("so supplying water and "food, or either of them,")

Line 27, leave out ("of such supply") and insert ("thereof")

Line 37, leave out ("on the railway of the company"), and after ("person") insert ("to be carried by the company")

Page 17.

Line 1, after ("hours") insert ("or other period, not being "less than twelve hours, as the Privy Council from time to "time by order prescribe")

At end of clause 64 add ("and it shall lie on the person "accused to prove the time within which the animal has "had a supply of water.")

Page 19.

Line 8, after ("landing") insert ("for protecting animals "from unnecessary suffering during inland transit")

Line 24, after ("animals") insert ("in Great Britain")

Page 24.

Line 33, leave out ("shall") and insert ("to")

Page 32.

Line 26, leave out ("tenth") and insert ("ninth")

Page 26.

Line 33, leave out the second ("in") and insert ("with")

Page 34.

Line 14, leave out from ("burgh") to ("All") in line 22.

Page 39.

Line 24, leave out ("respecting") and insert ("with respect "to")

Page 40.

Line 31, leave out ("lands or buildings") and insert ("land or "building")

Page 41.

Line 29, leave out ("this") and insert ("the above-men- "tioned")

LORDS AMENDMENTS

TO THE

CONTAGIOUS DISEASES (ANIMALS) BILL.

Ordered, by The House of Commons, *to be Printed*,
3 *August* 1869.

[Bill 257.]

Under 1 *oz.*

REPORT FROM THE COMMITTEE ON GROUP 13 OF RAILWAY BILLS.

USK AND TOWY RAILWAY BILL [*LORDS*].

Mr. Hardcastle reported from the Committee on Group 13 of Railway Bills: That in the case of the Usk and Towy Railway Bill [*Lords*], they had agreed to the following Report:—

That it is intended that the Railway should cross on the level the road specified in the Appendix. That a Report from an Officer of the Railway Department of the Board of Trade was laid before the Committee, recommending that the level crossing should be allowed, with the reasons and facts upon which his opinion is founded, and the Committee also recommend, for the reasons stated in the Appendix, that the proposed level crossing should be sanctioned.

That there are no other circumstances of which, in the opinion of the Committee, it is desirable that the House should be informed.

Mr. Hardcastle further reported from the Committee: That they had examined the allegations of the Bill, and found the same to be true; and had gone through the Bill, and made Amendments thereunto.

APPENDIX,

Specifying the Road intended to be crossed on the Level, with Explanations as to the Reasons for that mode of crossing.

No. on Plan.	Parish.	Description of Road.	Explanations.
107	Llywel	Public	This is only a bridle road of an average width of 5 or 6 feet leading to the hill pastures. The line is to be on the surface, and nearly straight, and the Officer of the Board of Trade recommends that the level crossing be allowed.